

## HOUSE BILL NO. HB0063

State investment standards.

Sponsored by: Select Committee on Capital Financing and Investments

A BILL

for

1 AN ACT relating to public funds; modifying requirements and  
2 standards for the investment of state funds; modifying  
3 requirements for managers of state funds; and providing for  
4 an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8       **Section 1.** W.S. 4-10-911, 9-4-701(a)(intro), (v),  
9 (vi), (ix)(intro), (x)(intro) and by creating a new  
10 subsection (s), 9-4-708(a), (b) and by creating a new  
11 subsection (d), 9-4-709(b)(vii), (d)(iii) and by creating  
12 new subsections (e) and (f), 9-4-711(a)(i), (iv), (b),  
13 (d)(intro) and 9-4-834(c) are amended to read:

14

15       **4-10-911. Application to public funds of the state of**  
16 **Wyoming.**

1

2 This article ~~does not apply~~ applies to public funds of the  
3 state of Wyoming unless ~~specific reference is made to this~~  
4 ~~article~~ a different investment standard is specifically  
5 provided for the investment of specified public funds.

6

7 **9-4-701. Permissible investments; treasurer's rules**  
8 **and regulations.**

9

10 (a) The state treasurer may invest permanent funds  
11 with the approval of the state loan and investment board in  
12 the following:

13

14 (v) ~~And, with the approval of the state loan and~~  
15 ~~investment board, the state treasurer may invest permanent~~  
16 ~~funds~~ In farm loan mortgages in compliance with the laws of  
17 this state;

18

19 (vi) ~~Permanent funds may be invested~~ In other  
20 securities the legislature authorizes by law;

21

22 (ix) ~~The state treasurer may invest~~ In  
23 diversified mutual funds which invest in securities which  
24 the state treasurer could not own directly if:

1

2 (x) ~~The state treasurer may invest~~ In a  
3 commingled fund held through a trust company or trust  
4 department of a bank which holds securities which the state  
5 treasurer could not own directly if:

6

7 (s) Except as otherwise provided in this article,  
8 when approving, acquiring, investing, reinvesting,  
9 exchanging, retaining, selling and managing securities and  
10 other property with funds of the state of Wyoming, the  
11 state loan and investment board, the state treasurer, a  
12 designee of the state treasurer or any other fiduciary  
13 appointed by the state treasurer shall exercise the  
14 judgment and care of a prudent investor as specified under  
15 the Uniform Prudent Investor Act, W.S. 4-10-901 to  
16 4-10-913.

17

18 **9-4-708. Investment managers.**

19

20 (a) The state treasurer may contract with ~~registered~~  
21 investment ~~advisors~~ managers and pay for investment  
22 services and investment advice subject to the following  
23 conditions:

24

1 (i) All fees and other costs of contracting for  
2 and using the services of ~~a registered~~ an investment  
3 ~~advisor~~ manager, except transaction costs and custodial  
4 fees, shall be paid ~~earnings~~ by state warrant and accounted  
5 for on at least a quarterly basis;

6  
7 (ii) No contract with ~~a registered~~ an investment  
8 ~~advisor~~ manager shall permit that ~~advisor~~ manager to manage  
9 more than fifteen percent (15%) of the total portfolio of  
10 state funds available for investment at the time the  
11 contract is executed. No ~~registered~~ investment ~~advisor~~  
12 manager under contract with the state ~~loan and investment~~  
13 ~~board~~ treasurer shall be permitted to act as a securities  
14 broker with respect to transactions involving state  
15 investments, ~~or to receive any fee or other consideration~~  
16 ~~with respect to any transaction by a broker on behalf of~~  
17 ~~the state~~ unless the transaction can be made without  
18 incurring commission or market impact cost;

19  
20 (iii) The amount of state funds under contract  
21 with ~~a registered~~ an investment ~~advisor~~ manager shall not  
22 exceed ten percent (10%) of the total assets managed by  
23 that investment ~~advisor~~ manager;

24

1           (iv) ~~Registered~~Investment ~~advisors~~managers  
2 shall be selected based upon a competitive process and with  
3 consideration given to the historical performance of  
4 prospective ~~advisors~~managers. No ~~registered~~ investment  
5 ~~advisor~~manager shall be hired unless approved by a  
6 majority vote of the state loan and investment board. The  
7 contract with ~~a registered~~an investment ~~advisor~~manager  
8 may be terminated by a majority vote of the state loan and  
9 investment board;

10

11           (v) ~~Registered~~Investment ~~advisors~~managers  
12 shall be paid on a negotiated flat fee or performance basis  
13 based upon net assets invested;

14

15           (vi) Contracts with ~~registered~~ investment  
16 ~~advisors~~managers shall be subject to cancellation upon  
17 receipt of thirty (30) days notice by either party;

18

19           (vii) The state treasurer shall not contract  
20 with any person as ~~a registered~~an investment ~~advisor~~  
21 manager under this subsection unless that person ~~and or~~  
22 that person's firm ~~have~~has prior to the execution of the  
23 contract, a verifiable ~~Association of Investment Managers~~  
24 ~~Research (AIMR)~~CFA Institute (Chartered Financial Analyst

1 Institute) compliant track record of at least five (5)  
2 years with respect to the type of investments regarding  
3 which the advisor will provide services or the ~~registered~~  
4 investment ~~advisor~~ manager is employed by an organized and  
5 chartered bank trust company with trust assets in excess of  
6 one billion dollars (\$1,000,000,000.00). Any prospective  
7 ~~advisor~~ manager shall submit to the state treasurer audited  
8 financial statements in accordance with the treasurer's  
9 rules and regulations and a certified record of the  
10 ~~advisor's~~ manager's past investment performance prepared by  
11 an independent entity;

12

13 (viii) Each ~~registered~~ investment ~~advisor~~  
14 manager shall at least quarterly provide a report to the  
15 state treasurer describing the ~~advisor's~~ manager's  
16 performance relative to mutually agreed upon industry  
17 indices and reflecting all brokerage fees and other fees or  
18 expenses paid by or fees earned by the ~~advisor~~ manager  
19 which are paid by the state under the contract.

20

21 (b) With the approval of the state loan and  
22 investment board, the state treasurer may contract for  
23 services to select ~~an advisor~~ an investment manager.

24

1       (d) Investment managers retained for management of  
2 traditional assets shall be a registered investment advisor  
3 under the Investment Advisor's Act of 1940 as amended.  
4 Investment managers retained for management of alternative  
5 assets are not required to be a registered investment  
6 advisor under the Investment Advisor's Act of 1940 as  
7 amended.

8  
9       **9-4-709. State investment policy; evaluation.**

10  
11       (b) The investment policy statements shall include  
12 the following:

13  
14               (vii) Procedures for selecting and dismissing  
15 ~~registered~~-investment ~~advisors~~managers when utilized;

16  
17       (d) The state loan and investment board:

18  
19               (iii) Shall receive an appropriation directed to  
20 the office of state lands and investments to be used to  
21 compensate the ~~consultant~~entity retained under paragraph  
22 (i) of this subsection for its services.

1       (e) The state treasurer shall obtain the approval of  
2 the state loan and investment board prior to the investment  
3 of funds in alternative assets, provided:

4  
5       (i) The approval of the state loan and  
6 investment board shall be complete upon the review and  
7 written acceptance of the material terms of the instruments  
8 governing the investment;

9  
10       (ii) Any material adverse change to the terms of  
11 instruments governing investments, previously approved by  
12 the state loan and investment board, at any time while the  
13 investments are held by the state of Wyoming shall require  
14 the renewal of approval of such investments by the board.

15  
16       (f) For purposes of this article "alternative assets"  
17 are assets that have the potential to provide economic  
18 value to the owner but are not traditionally considered  
19 assets.

20  
21       **9-4-711. Permissible investments of state funds.**

22  
23       (a) Any funds of the state of Wyoming may be invested  
24 by the state treasurer, or his designee under W.S.



1 9-4-834(a), in any one (1) or more of the following  
2 securities:

3  
4 (i) Investments authorized by W.S. 9-4-831;  
5 ~~except for W.S. 9-4-831(a)(xxvi) regarding commercial paper~~  
6 ~~which is subject to paragraph (iii) of this subsection;~~

7  
8 (iv) ~~In addition to~~ Any other security or  
9 securities the legislature authorizes or has authorized by  
10 law, or any security or investment which has otherwise been  
11 approved by the state loan and investment board. ~~In~~  
12 ~~approving securities for the investment and management of~~  
13 ~~state funds, the board shall exercise the judgment and care~~  
14 ~~that a prudent investor would, in light of the purposes,~~  
15 ~~terms, distribution requirements and all other~~  
16 ~~circumstances regarding state funds, including risk and~~  
17 ~~return objectives established by the board which are~~  
18 ~~reasonably suitable to the purpose of the investment and~~  
19 ~~management of Wyoming state funds~~ pursuant to W.S.  
20 9-4-709(e);

21  
22 (b) ~~Trustee's investment and management decisions~~  
23 ~~respecting~~ The provisions of W.S. 9-4-701(s) shall apply to

1 investments made under this section subject to the  
2 following:

3  
4 (i) Without limiting the foregoing, individual  
5 ~~assets~~ investments or groups of investments made under this  
6 section shall not be evaluated ~~not~~ in isolation but in the  
7 context of the ~~trust~~ entire investment portfolio ~~as a whole~~  
8 and as ~~a~~ part of an overall investment strategy ~~having risk~~  
9 ~~and return objectives reasonably suited to~~ of the trust ~~or~~  
10 fund from which the investment is derived, consistent with  
11 the policies for such trust or fund established under W.S.  
12 9-4-709 by the state loan and investment board;

13  
14 (ii) Notwithstanding paragraph (i) of this  
15 subsection, the purchase of a security or the making of any  
16 direct investment by the state treasurer or his designee in  
17 a security shall not constitute a delegation of his duties  
18 under this article or under any rule promulgated under this  
19 article.

20  
21 (d) For purposes of approving additional ~~securities~~  
22 ~~for investment~~ investments under paragraph (a)(iv) of this  
23 section:

1 9-4-834. Investment of permanent funds.

2

(c) The state treasurer may contract with ~~registered~~  
investment ~~advisors~~managers as provided in W.S. 9-4-708.

5

6           **Section 2.**   W.S. 9-4-707(b), 9-4-708(c) and 9-4-711(c)  
7   are repealed.

8

9           **Section 3.** This act is effective July 1, 2005.

10

11 (END)