

ENROLLED ACT NO. 78, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING  
2005 GENERAL SESSION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(vii) The state treasurer shall not contract with any person as a ~~registered~~ an investment ~~advisor~~ manager under this subsection unless that person ~~and~~ or that person's firm ~~have~~ has prior to the execution of the contract, a verifiable ~~Association of Investment Managers Research (AIMR)~~ CFA Institute (Chartered Financial Analyst Institute) compliant track record of at least five (5) years with respect to the type of investments regarding which the ~~advisor~~ investment manager will provide services or the ~~registered~~ investment ~~advisor~~ manager is employed by an organized and chartered bank trust company with trust assets in excess of one billion dollars (\$1,000,000,000.00). Any prospective ~~advisor~~ manager shall submit to the state treasurer audited financial statements in accordance with the treasurer's rules and regulations and a certified record of the ~~advisor's~~ manager's past investment performance prepared by an independent entity;

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

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

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

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advisor under the Investment Advisor's Act of 1940 as amended.

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

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

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

(d) The state loan and investment board:

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

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

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

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

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

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(a) Any funds of the state of Wyoming may be invested by the state treasurer, or his designee under W.S. 9-4-834(a), in any one (1) or more of the following securities:

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

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

(b) ~~Trustee's investment and management decisions respecting~~ The provisions of W.S. 9-4-701(s) shall apply to investments made under this section subject to the following:

(i) Without limiting the foregoing, individual ~~assets~~ investments or groups of investments made under this section shall not be evaluated ~~not~~ in isolation but in the context of the ~~trust~~ entire investment portfolio ~~as a whole~~ and as ~~a~~ part of an overall investment strategy ~~having risk and return objectives reasonably suited to~~ of the trust. or fund from which the investment is derived, consistent with

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the policies for such trust or fund established under W.S. 9-4-709 by the state loan and investment board;

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

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

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

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

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

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk