

SENATE BILL REPORT

SB 5384

AS PASSED SENATE, MARCH 13, 1993

Brief Description: Regulating investment advisory contracts.

SPONSORS: Senators Moore, Newhouse, McAuliffe and Erwin; by request of Department of Licensing

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Amondson, Barr, Cantu, Fraser, McAuliffe, Newhouse, Pelz, Prince, Sutherland, and Vognild.

Staff: Benson Porter (786-7470)

Hearing Dates: February 10, 1993; February 15, 1993

BACKGROUND:

An investment advisor is prohibited from entering an investment advisory contract that allows the investment advisor to be compensated based on the capital gains or appreciation of the client's funds. However, an investment advisor may be compensated based on a fund average for a definite period or date.

The federal Investment Advisors Act of 1940 contains a similar prohibition on compensation. In interpreting this prohibition, the Securities and Exchange Commission has adopted a regulation that exempts certain compensation arrangements. The criteria for exemption include minimum financial means of the client, requirements on how the compensation is calculated, and the disclosure of material information by the investment advisor to the client.

SUMMARY:

The director of the Department of Licensing is authorized to adopt rules delineating permissible performance based compensation arrangements for investment advisors. Any rule adopted by the director may only allow those arrangements permitted under the Securities and Exchange Commission's regulations and the federal Investment Advisors Act of 1940.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The director's ability to adopt rules regarding performance based compensation for investment advisors will enable state requirements to conform with federal provisions.

TESTIMONY AGAINST: None

TESTIFIED: Mike Stevenson, Department of Licensing (pro); Walt Corneille, IAFF (pro)