

HOUSE BILL REPORT

SB 5384

As Passed House
April 6, 1993

Title: An act relating to performance-based compensation of investment advisers.

Brief Description: Regulating investment advisory contracts.

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

Brief History:

Reported by House Committee on:

Financial Institutions & Insurance, March 25, 1993, DP;
Passed House, April 6, 1993, 95-1.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 12 members: Representatives Zellinsky, Chair; Mielke, Ranking Minority Member; Dyer, Assistant Ranking Minority Member; Anderson; Grant; Kessler; Kremen; Lemmon; R. Meyers; Reams; Schmidt; and Tate.

Staff: John Conniff (786-7119).

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 of Bill: The director of the Department of Licensing is authorized to adopt rules delineating permissible performance based compensation arrangements for investment advisers. 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.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This legislation will allow the Securities Division to adopt rules governing investment advisor compensation consistent with new federal regulations.

Testimony Against: None.

Witnesses: Mike Stevenson, Department of Licensing, Securities Division (pro).