

KEVIN LEMBO
STATE COMPTROLLER



MARTHA CARLSON
DEPUTY COMPTROLLER



STATE OF CONNECTICUT
OFFICE *of the* STATE COMPTROLLER
55 Elm Street
Hartford, CT 06106

**Written Testimony
Comptroller Kevin Lembo
March 2, 2017**

**Concerning
H.B. 7161: AA Requiring Service Providers Under Certain Retirement Plans to Disclose
Conflicts of Interest**

Good morning Senator Winfield, Representative Lesser, Senator Martin, Representative Simanski, and Members of the Banking Committee:

Thank you for raising this legislation and for the opportunity to show my general support for additional protections for the beneficiaries of 403(b) retirement plans. I've discussed this proposed legislation with Representative Lesser and wish to thank him specifically for calling attention to this important issue.

The U.S. Department of Labor last year issued a conflict of interest rule to strengthen protections for beneficiaries of retirement plans that fall under ERISA and IRAs. The definition of "fiduciary" for purposes of providing investment advice dates back decades, predating the advent of 401(k) and other defined contribution plans. Prevalent thought within the retirement industry was that the definition was due for an update to reflect the evolution of the retirement plan landscape. The rule requires disclosures of conflicts of interest for any individual or organization that receives compensation for providing investment recommendations, making many of these advisors fiduciaries for the first time.

However, 403(b) plans that are exempt from ERISA under the governmental plan or church plan exemptions are not covered by the new U.S. DOL conflict of interest rule. These exemptions have been in place since ERISA was initially passed, citing concerns over federalism and the claim that public plans were generally more generous than private plans. Many states have state rules governing fiduciary responsibility of these non-ERISA plans. Passing this legislation would require the same level of fiduciary responsibility as is now required at the federal level with ERISA covered plans, protecting Connecticut beneficiaries of 403(b) retirement plans from unwise investment advice that is not in their best interests.

Comptroller Written Testimony on AA Requiring Service Providers Under Certain Retirement Plans to Disclose Conflicts of Interest

Although I support these additional protections, as administrator for the state employees' 457 and 403(b) retirement plans, I believe a perceived conflict of interest might exist if I were also charged with implementing these regulations. Therefore, I recommend that another agency with an already existing regulatory capacity be charged with implementing these important protections.

Thank you for your time.