General Assembly

Raised Bill No. 533

February Session, 2006

LCO No. **2531**

Referred to Committee on

PLANNING & DEVELOPMENT

Introduced by:

(PD)

AN ACT CONCERNING MUNICIPAL PENSION DEFICIT FUNDING BONDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 7-374b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(b) Any municipality may authorize the issuance of bonds, notes or other obligations in accordance with the provisions of this chapter for the purpose of funding a [loss and retiree benefits] reserve fund for property or casualty losses established pursuant to section 7-403a, as amended by this act.

Sec. 2. Section 7-374c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) For purposes of this section:

(1) "Actuarial valuation" means a determination certified by an enrolled actuary, in a method and using assumptions meeting the parameters established by generally accepted accounting principles, of

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the normal cost, actuarial accrued liability, actuarial value of assets and related actuarial present values for a pension plan of a municipality as of a valuation date not more than thirty months preceding the date of issue of the pension deficit funding bonds, together with an actuarial update of such valuation as of a date not more than three months preceding the date of notification of the secretary by the municipality, in accordance with subdivision (1) of subsection (c) of this section, of its intent to issue the pension deficit funding bonds.

(2) "Actuarially recommended contribution" means the lesser of the annual employer normal cost or the [recommended] annual required contribution of the municipal employer to the pension plan of the municipality, [each of which is] as established by the actuarial valuation and determined by an enrolled actuary in a method and using assumptions meeting the parameters established by generally accepted accounting principles provided such contribution shall, [in a time and manner to be prescribed by regulations adopted by the secretary,] in consultation with the Treasurer, be at least equal to the amount actuarially determined necessary to maintain the pension plan's funding ratio substantially the same as immediately succeeding the deposit of the proceeds of the pension deficit funding bonds in such pension plan. Notwithstanding the provisions of this subdivision, with respect to any pension deficit funding bonds (A) issued on or after July 1, 2006, or (B) issued prior to such date and with respect to which the municipality issuing the bonds requests and receives the approval of the Treasurer and the secretary, the term "actuarially recommended contribution" means the annual required contribution of the municipal employer to the pension plan of the municipality, as established by the actuarial valuation and determined by an enrolled actuary in a method and using assumptions meeting the parameters established by generally accepted accounting principles, provided the amortization schedule used to determine such contribution shall be fixed and shall have a term not longer than the longest of ten years, or thirty years from the date of issuance of the pension deficit funding bonds. Any municipality receiving the approval of the secretary and

the Treasurer to apply this definition with respect to pension deficit funding bonds issued prior to July 1, 2006, shall thereafter comply with the provisions of subdivision (3) of subsection (c) of this section.

(3) "Chief executive officer" means [such officer as described in section 7-193] (A) for a municipality as described in section 7-188, such officer as described in section 7-193, (B) for a metropolitan district, such officer as described in the special act, charter, local ordinance or other local law applicable to such metropolitan district, (C) for a district, as defined in section 7-324, the president of its board of directors, (D) for a regional school district, the chairperson of its regional board of education, and (E) for any other municipal corporation having the power to levy taxes and to issue bonds, notes or other obligations, such officer as prescribed by the general statutes or any special act, charter, special act charter, home-rule ordinance, local ordinance or local law applicable to such municipal corporation.

(4) "Enrolled actuary" means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under subtitle C of title III of the Employee Retirement Income Security Act of 1974, as from time to time amended.

(5) "General obligation" means an obligation issued by a municipality and secured by the full faith and credit and taxing power of such municipality.

(6) "Legislative body" means (A) for a regional school district, the regional board of education, and (B) for any other municipality not having the authority to make ordinances, the body, board, committee or similar body charged under the general statutes, special acts or its charter with the power to authorize the issue of bonds by the municipality.

[(6)] (7) "Municipal Finance Advisory Commission" means the Municipal Finance Advisory Commission established pursuant to section 7-394b.

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[(7)] (8) "Municipality" means a municipality, as defined in section 7-369 or a regional school district.

[(8)] (9) "Obligation" means any bond or any other transaction which constitutes debt in accordance with both municipal reporting standards in section 7-394a and the regulations prescribing municipal financial reporting adopted by the secretary pursuant to said section 7-394a.

[(9)] (10) "Pension deficit funding bond" means any obligation issued by a municipality to fund, in whole or in part, an unfunded past benefit obligation. ["Pension deficit funding bond"] The term "pension deficit funding bond" shall not include any bond issued by a municipality pursuant to and in accordance with the provisions of subsection (g) of this section to pay, fund or refund prior to maturity any of its pension deficit funding bonds previously issued, or any bond issued prior to January 1, 1999, but may include any bond issued by a municipality prior to January 1, 1999, for the sole and exclusive purposes of (A) applying the provisions of subsection (f) of this section in lieu of subsection (c) of section 7-403a, as amended by this act, as the municipality may determine, and (B) requiring the municipality to apply and comply with the provisions of subsections (c) and (d) of this section.

[(10)] (11) "Secretary" means the Secretary of the Office of Policy and Management or the secretary's designee.

[(11)] (12) "Treasurer" means the Treasurer of the state of Connecticut or the Treasurer's designee.

[(12)] (13) "Unfunded past benefit obligation" means the unfunded actuarial accrued liability of the pension plan determined in a method and using assumptions meeting the parameters established by generally accepted accounting principles.

[(13)] (14) "Weighted average maturity" means (A) the sum of the products, determined separately for each maturity or sinking fund payment date and taking into account any mandatory redemptions of the obligation, of (i) with respect to a serial obligation, the principal amount of each serial maturity of such obligation and the number of years to such maturity, or (ii) with respect to a term obligation, the dollar amount of each mandatory sinking fund payment with respect to such obligation and the number of years to such payment, divided by (B) the aggregate principal amount of such obligation.

(b) Except as expressly provided in this section, no municipality shall issue any pension deficit funding bond.

(c) Any municipality which has no outstanding pension deficit funding bonds, other than an earlier series of such obligations issued under [section 7-374] <u>subsection (b) of section 7-374b, as amended by this act,</u> or this section to partially fund an unfunded past pension obligation, may authorize and issue pension deficit funding bonds to fund all or a portion of an unfunded past benefit obligation, as determined by an actuarial valuation, and the payment of costs related to the issuance of such bonds in accordance with the following requirements.

(1) The municipality shall, within the time and in the manner prescribed by regulations adopted by the secretary or as otherwise required by the secretary, notify the secretary of its intent to issue such pension deficit funding bonds and shall include with such notice (A) the actuarial valuation, (B) an actuarial analysis of the method by which the municipality proposes to fund any unfunded past benefit obligation not to be defrayed by the pension deficit funding bonds, which method may include a plan of issuance of a series of pension deficit funding bonds, (C) an explanation of the municipality's investment strategic plan for the pension plan with respect to which the pension deficit funding bonds are to be issued, including, but not limited to, an asset allocation plan, (D) a three-year financial plan, including the <u>major assumptions and</u> plan of finance for such pension

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deficit funding bonds, [prepared in the manner prescribed by the secretary, (E) documentation of the municipality's authorization of the issuance of such pension deficit funding bonds, and (F) such other information and documentation, as defined in regulations, as is required by the secretary or the Treasurer to carry out the provisions of this section.] (E) a comparison of the anticipated effects of funding the unfunded past benefit obligation through the issuance of pension deficit funding bonds with the funding of the obligation through the annual actuarially recommended contribution, prepared in the manner prescribed by the secretary, (F) documentation of the municipality's authorization of the issuance of such pension deficit funding bonds including a certified copy of the resolution or ordinance of the municipality authorizing the issuance of the pension deficit funding bonds and an opinion of nationally recognized bond counsel as to the due authorization of the issuance of the bonds, (G) documentation that the municipality has adopted an ordinance, or with respect to a municipality not having the authority to make ordinances, has adopted a resolution by a two-thirds vote of the members of its legislative body, requiring the municipality to appropriate funds in an amount sufficient to meet the actuarially required contribution and contribute such amounts to the plan as required in subdivision (3) of subsection (c) of this section, (H) the methodology used and actuarial assumptions that will be utilized to calculate the actuarially recommended contribution, (I) a draft official statement with respect to the issuance of the pension deficit funding bonds, and (J) such other information and documentation as reasonably required by the secretary or the Treasurer to carry out the provisions of this section. The secretary and the Treasurer may, if they deem necessary, hire an independent actuary to review the information submitted by the municipality.

(2) Not later than ten days after the sale of the pension deficit funding bonds, the municipality shall provide the secretary and the Treasurer with a final financing summary comparing the anticipated effects of funding the unfunded past benefit obligation through the

issuance of the pension deficit funding bonds with the funding of the obligation through the annual actuarially recommended contribution, prepared in the manner prescribed by the secretary.

[(2)] (3) So long as the pension deficit funding bonds or any bond refunding such bonds are outstanding, the municipality shall (A) [meet any actuarially recommended contribution in] for each fiscal year of the municipality commencing with the fiscal year in which the bonds are issued, appropriate funds in an amount sufficient to meet the actuarially required contribution and contribute such amount to the plan, and (B) notify the secretary annually, who shall in turn notify the Treasurer, of the amount [and] or the rate of any such actuarially recommended contribution and the amount [and] or the rate, if any, of the actual annual contribution by the municipality to the pension plan to meet such actuarially recommended contribution. On an annual basis, the municipality shall provide the secretary and the Treasurer with: (i) The actuarial valuation of the pension plan, (ii) a specific identification, in a format to be determined by the secretary, of any changes that have been made in the actuarial assumptions or methods compared to the previous actuarial valuation of the pension plan, (iii) the footnote disclosure and required supplementary information disclosure required by GASB Statement Number 27 with respect to the pension plan, and (iv) a review of the investments of the pension plan including a statement of the current asset allocation and an analysis of performance by asset class. With respect to a municipality which issues pension deficit funding bonds on or after July 1, 2006, in any fiscal year for which such municipality fails to appropriate sufficient funds to meet the actuarially required contribution in accordance with the provisions of this subdivision there shall be deemed appropriated an amount sufficient to meet such requirement, notwithstanding the provisions of any other general statute or of any special act, charter, special act charter, home-rule ordinance, local ordinance or local law.

[(3)] (4) The municipality shall not issue pension deficit funding bonds prior to, nor more than six months subsequent to, receipt of the

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written final review required under subsection (d) of this section. A municipality may renotify the secretary of its intention to issue pension deficit funding bonds and provide the secretary with updated information and documentation in the manner and as described in subdivision (1) of this subsection, and request an updated final review from the secretary if more than six months will elapse between the receipt of the prior final review of the secretary and the proposed date of issue of the pension deficit funding bonds.

(d) Upon receipt of notification from a municipality that it intends to issue pension deficit funding bonds, the secretary shall inform the Treasurer and the Municipal Finance Advisory Commission of such notification. The secretary and the Treasurer shall review the information and documentation required in subsection (c) of this section and within fifteen days shall notify the municipality as to the adequacy of the materials provided and whether any additional information is required. The secretary and the Treasurer shall issue a written final review to the municipality verifying that the municipality has complied with the provisions of subdivision (1) of subsection (c) of this section and, including any recommendations to the municipality concerning the issuance of pension deficit funding bonds, not later than thirty days following the receipt of such information and documentation. The secretary shall file a copy of such final review with the chief executive officer of the municipality and the Municipal Finance Advisory Commission. If the secretary and the Treasurer fail to provide a written final review to the municipality by the forty-fifth day following the receipt of such information and documentation, such final review shall be deemed to have been received by the municipality.

(e) Except as otherwise provided by this section, the provisions and limitations of this chapter shall apply to any pension deficit funding bonds issued pursuant to the provisions of this section. Such pension deficit funding bonds shall be general obligations of the municipality, and shall be serial bonds maturing in annual or semiannual installments of principal, or shall be term bonds with mandatory annual or semiannual deposits of sinking fund payments into a sinking fund. Notwithstanding the provisions of any other general statute or of any special act, charter, special act charter, home-rule ordinance, local ordinance or local law, (1) the first installment of any series of pension deficit funding bonds shall mature or the first sinking fund payment of any series of pension deficit funding bonds shall be due not later than eighteen months from the date of the issue of such series, provided that such first installment shall mature or such first sinking fund payment shall be due not later than the fiscal year of the municipality next following the fiscal year in which such series is issued, and the last installment of such series shall mature or the last sinking fund payment of such series shall be due not later than thirty years from such date of issue, (2) any such pension deficit funding bonds may be sold at public sale on sealed proposal, by negotiation or by private placement in such manner at such price or prices, at such time or times and on such terms or conditions as the municipality, or the officers or board of the municipality delegated the authority to issue such bonds, determines to be in the best interest of the municipality, and (3) no municipality shall issue temporary notes in anticipation of the receipt of the proceeds from the sale of its pension deficit funding bonds.

(f) Proceeds of the pension deficit funding bonds, to the extent not applied to the payment of costs related to the issuance thereof, shall be deposited in the pension plan of the municipality to fund the unfunded past benefit obligation for which the bonds were issued, and, notwithstanding any limitations on the investment of proceeds received from the sale of bonds, notes or other obligations set forth in section 7-400 may be invested in accordance with the terms of said pension plan, as such terms may be amended from time to time.

(g) A municipality may authorize and issue refunding bonds to pay, fund or refund prior to maturity any of its pension deficit funding bonds in accordance with the provisions of section 7-370c, provided,

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or, with respect to a regional school district, the provision of section 10-60a, notwithstanding the provisions of said [section] sections 7-370c and 10-60a, the weighted average maturity of such refunding bonds shall not exceed the weighted average maturity of the outstanding pension deficit funding bonds being paid, funded or refunded by such refunding bonds. The municipality shall notify the secretary, who shall in turn notify the Treasurer, of its intention to issue refunding bonds pursuant to this subsection, not less than fifteen days prior to the issuance thereof, and shall provide the secretary with a copy of the final official statement, if any, prepared for the refunding bonds, not more than fifteen days after the date of issue of such bonds.

(h) The secretary, in consultation with the Treasurer, [shall] may adopt regulations, in accordance with the provisions of chapter 54, as necessary to establish guidelines concerning compliance with the provisions of subsections (c), (d) and (g) of this section.

Sec. 3. Section 7-403a of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof *(Effective July 1, 2006)*:

(a) Upon the recommendation of the chief executive officer of a municipality and approval of the budget-making authority of the municipality, the legislative body of any municipality, as defined in section 7-369, may, by a majority vote, create a loss and retiree benefits reserve fund. The provisions of subsection (a) of section 7-450, as amended, regarding the establishment of postemployment health and life benefit systems, shall not affect the provisions of this section.

(b) Upon the recommendation of the chief executive officer and approval of the budget-making authority and the legislative body, there shall be paid into such reserve fund (1) amounts authorized to be transferred thereto from the general fund cash surplus available at the end of any fiscal year, (2) amounts raised by the annual levy of a tax for the benefit of such fund, and for no other purpose, provided such tax shall be levied and collected in the same manner and at the same time as the regular annual taxes of the municipality, or (3) with respect to a reserve fund for property or casualty losses, the proceeds of bonds, notes or other obligations issued pursuant to subsection (b) of section 7-374b, as amended by this act.

(c) The budget-making authority may, from time to time, direct the treasurer to invest such portion of such reserve fund as in its opinion is advisable, provided: (1) Not more than forty per cent of the total amount [invested] of the reserve fund shall be invested in equity securities, and (2) [not less than fifty per cent of the total amount invested shall be invested in United States government obligations, United States agency obligations, United States postal service obligations, certificates of deposit, commercial paper, savings accounts and bank acceptances] any portion of such reserve fund not so in invested may be invested in bonds or obligations of, or guaranteed by, the state or the United States, or agencies or instrumentalities of the United States in certificates of deposit, commercial paper, savings accounts and bank acceptances, in the obligations of any state of the United States or any political subdivision thereof or the obligations of any instrumentality, authority or agency of any state or political subdivision thereof, provided at the time of investment such obligations are rated within the top rating categories of any nationally recognized rating service or of any rating service recognized by the Banking Commissioner, and applicable to such obligations, in the obligations of any regional school district in this state, of any municipality in this state or any metropolitan district in this state, provided at the time of investment such obligations of such government entity are rated within one of the top two rating categories of any nationally recognized rating service or of any rating service recognized by the Banking Commissioner, and applicable to such obligations, or in any fund in which a trustee may invest pursuant to section 36a-353, or in investment agreements with financial institutions whose long-term obligations are rated within the top two rating categories of any nationally recognized rating service or of any rating service recognized by the Banking Commissioner or whose short-term

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obligations are rated within the top rating category of any nationally recognized rating service or of any rating service recognized by the Banking Commissioner, or investment agreements fully secured by obligations of, or guaranteed by, the United States or agencies or instrumentalities of the United States.

(d) The treasurer shall submit annually a complete and detailed report of the condition of such fund to the chief executive officer, the budget-making authority and the legislative body and such report shall be made a part of the annual report of the municipality.

(e) Upon the recommendation of the chief executive officer and the budget-making authority and approval by the legislative body, (1) any part or the whole of such fund may be used and appropriated to pay only for property or casualty losses and employee retirement benefits, and expenses related thereto, including court costs and attorneys' fees, incurred by the municipality, or (2) any part or the whole of such fund may be transferred to a trust established to hold and invest the assets of a pension, retirement or other postemployment health and life benefit system of the municipality. Any unexpended portion of such appropriation remaining after such payment, together with all interest accruing on the balance in the fund, shall revert to and be credited to such reserve fund. For the purposes of this section, "property or casualty losses and employee retirement benefits" shall include, but not be limited to, [(1)] (A) motor vehicle liability, physical damage and collision, [(2)] (B) loss or damage to, or legal liability for, real or personal property, [(3)] (C) legal liability for personal injuries or deaths, including but not limited to, workers' compensation and heart and hypertension, and [(4)] (D) retiree health and life benefits.

(f) Such fund may be discontinued, after recommendation by the chief executive officer and the budget-making authority to the legislative body and upon approval of such body, and [such] to the extent there is any remaining portion of such fund, the fund shall be converted into, or added to, a sinking fund to provide for the

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retirement of the bonded indebtedness of the municipality. If the municipality has no bonded indebtedness, such fund shall be transferred to the general fund of the municipality.

Sec. 4. Subdivision (1) of section 7-425 of the general statutes is repealed and the following is substituted in lieu thereof *(Effective July 1, 2006)*:

(1) "Municipality" means any town, city, borough, school district, regional school district, taxing district, fire district, district department of health, probate district, housing authority, regional work force development board established under section 31-3k, regional emergency telecommunications center, tourism district established under section 10-397, flood commission or authority established by special act or regional planning agency.

Sec. 5. Subdivision (3) of section 7-425 of the general statutes is repealed and the following is substituted in lieu thereof *(Effective July 1, 2006)*:

(3) "Legislative body" means, for towns having a town council, the council; for other towns, the selectmen; for cities, the common council or other similar body of officials; for boroughs, the warden and burgesses; for regional school districts, the regional board of education for district departments of health, the board of the district; in the case of a probate district, the judge of probate; for regional planning agencies, the regional planning board; for regional emergency telecommunications center, a representative board; for tourism districts, the board of directors of such tourism district; and in all other cases the body authorized by the general statutes or by special act to make ordinances for the municipality.

Sec. 6. Section 7-450 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof *(Effective July 1, 2006)*:

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(a) Any municipality or subdivision thereof may, by ordinance, or with respect to a municipality not having the authority to make ordinances, by resolution adopted by a two-thirds vote of the members of its legislative body, establish pension, retirement, or other postemployment health and life benefit systems for its officers and employees and their beneficiaries, or amend any special act concerning its pension, retirement, or other postemployment health and life benefit systems, toward the maintenance in sound condition of a pension, retirement, or other postemployment health and life benefit fund or funds, provided the rights or benefits granted to any individual under any municipal pension or retirement system shall not be diminished or eliminated. The legislative body of any such municipality, by resolution adopted by a two-thirds vote of its members, may provide for pensions to persons, including survivors' benefits for widows of such persons, not included in such pension or retirement system.

[(b) The provisions of subsection (a) of this section shall not operate to invalidate the establishment of any postemployment health and life benefit system duly established prior to October 1, 2005, by any municipality or subdivision thereof, pursuant to the provisions of any public or special act, charter, special act charter, home-rule ordinance, local ordinance or local law.]

(b) Notwithstanding the provisions of the general statutes or of any special act, charter, special act charter, home-rule ordinance, local ordinance or other local law, any municipality or subdivision thereof may, by ordinance and amendment thereto, or with respect to a municipality not having the authority to make ordinances, by resolution adopted by a two-thirds vote of the members of its legislative body, (1) establish one or more trusts, or determine to participate in a multiemployer trust, to hold and invest the assets of such pension, retirement or other postemployment health and life benefit system; (2) provide for the management and investment of such system and any such trust, including the establishment of a board or commission or the designation of an existing board or commission for such purposes; or (3) provide for the organization of and the manner of election or appointment of the members of such board or commission. Notwithstanding any limitations on the investment of municipal funds set forth in section 7-400, funds held in any such trust may be invested in accordance with the terms of the pension, retirement or other postemployment health and life benefit plan, as such terms may be amended from time to time. The investment and management of the assets of any such trust shall be in compliance with the prudent investor rule as set forth in sections 45a-541 to 45a-451*l*, inclusive.

(c) The provisions of subsections (a) and (b) of this section shall not operate to invalidate the establishment by any municipality or subdivision thereof, pursuant to the provisions of any public or special act, charter, special act charter, home-rule ordinance, local ordinance or local law, of any postemployment health and life benefit system duly established prior to October 1, 2005, or of any trust duly established or board or commission duly established or designated prior to the effective date of this act with respect to a pension, retirement or other postemployment health and life benefit system.

Sec. 7. Section 7-450a of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) Any municipality, in which a pension, retirement, or other postemployment health and life benefit system applicable with respect to any employees of such municipality has been established by ordinance or under the authority of any public or special act, charter or special act charter, shall have prepared, no less often than once every five years commencing July 1, 1977, an actuarial evaluation of such system, including evaluation of accumulated or past service liability and the annual liability related to benefits currently earned under such system. Such evaluation shall be prepared by an actuary enrolled by

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the joint board for the enrollment of actuaries established under Subtitle C of Title III of the federal act entitled Employee Retirement Income Security Act of 1974, and such evaluation shall be prepared on the basis of such assumptions as to interest earnings, mortality experience, employee turnover and any other factors affecting future liabilities under such system, which in the judgment of such actuary represent the best estimate as to future experience under such system.

(b) No ordinance, resolution or other act altering the pension, retirement, or other postemployment health and life benefit system shall be enacted until the legislative body [, as defined in subsection (3) of section 7-425,] of the municipality has requested and received a qualified cost estimate from such enrolled actuary.

(c) Any municipality subject to the requirements in subsection (a) of this section shall have prepared, within six months following the adoption of any amendment to such system increasing benefits to any extent, in addition to such evaluations as required under subsection (a), a revision of the last preceding evaluation reflecting the increase in potential municipal liability under such system. If such amendment is adopted within one year preceding a date on which an actuarial evaluation is required under subsection (a) of this section, an additional evaluation shall not be required.

(d) Any actuarial evaluation prepared for a municipality in accordance with this section shall be delivered to the chief fiscal officer of such municipality who shall file a certified copy thereof with the [town or city clerk] municipal clerk and, with respect to any municipality constituting a multitown district, with the municipal clerk of each such town, for custody in the manner of other public records. A summary of such evaluation, including a statement prepared by the actuary as to the amount of annual payment that should be made for proper funding on the basis of such evaluation with respect to benefits currently earned and the accumulated or past service liability, shall be included in the first annual report of the municipality next following completion of each such evaluation.

This act shall take effect as follows and shall amend the following sections:

Section 1	*July 1, 2006*	7-374b(b)
Sec. 2	*July 1, 2006*	7-374c
Sec. 3	*July 1, 2006*	7-403a
Sec. 4	*July 1, 2006*	7-425(1)
Sec. 5	*July 1, 2006*	7-425(3)
Sec. 6	*July 1, 2006*	7-450
Sec. 7	*July 1, 2006*	7-450a

Statement of Purpose:
To clarify state statutes concerning municipal postemployment health and life benefit systems; to revise state statutes regarding municipal retiree benefit reserve funds in order to facilitate the transfer of funds held in such reserves to pension, retirement and OPEB (Other Post Employment Benefits) trusts; and to update the statutes with respect to the issuance of pension obligation bonds by municipalities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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Senate

General Assembly

File No. 138

February Session, 2006

Substitute Senate Bill No. 533

Senate, March 27, 2006

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MUNICIPAL PENSION DEFICIT FUNDING BONDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 7-374b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(b) Any municipality may authorize the issuance of bonds, notes or other obligations in accordance with the provisions of this chapter for the purpose of funding a [loss and retiree benefits] reserve fund for property or casualty losses established pursuant to section 7-403a, as amended by this act.

Sec. 2. Section 7-374c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) For purposes of this section:

(1) "Actuarial valuation" means a determination certified by an enrolled actuary, in a method and using assumptions meeting the parameters established by generally accepted accounting principles, of the normal cost, actuarial accrued liability, actuarial value of assets and related actuarial present values for a pension plan of a municipality as of a valuation date not more than thirty months preceding the date of issue of the pension deficit funding bonds, together with an actuarial update of such valuation as of a date not more than three months preceding the date of notification of the secretary by the municipality, in accordance with subdivision (1) of subsection (c) of this section, of its intent to issue the pension deficit funding bonds.

(2) "Actuarially recommended contribution" means the lesser of the annual employer normal cost or the [recommended] annual required contribution of the municipal employer to the pension plan of the municipality, [each of which is] as established by the actuarial valuation and determined by an enrolled actuary in a method and using assumptions meeting the parameters established by generally accepted accounting principles provided such contribution shall, [in a time and manner to be prescribed by regulations adopted by the secretary, in consultation with the Treasurer,] be at least equal to the amount actuarially determined necessary to maintain the pension plan's funding ratio substantially the same as immediately succeeding the deposit of the proceeds of the pension deficit funding bonds in such pension plan. Notwithstanding the provisions of this subdivision, with respect to any pension deficit funding bonds (A) issued on or after July 1, 2006, or (B) issued prior to such date and with respect to which the municipality issuing the bonds requests and receives the approval of the Treasurer and the secretary, the term "actuarially recommended contribution" means the annual required contribution of the municipal employer to the pension plan of the municipality, as established by the actuarial valuation and determined by an enrolled actuary in a method and using assumptions meeting the parameters established by generally accepted accounting principles, provided the amortization schedule used to determine such contribution shall be fixed and shall have a term not longer than the longest of ten years, or

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thirty years from the date of issuance of the pension deficit funding bonds. Any municipality receiving the approval of the secretary and the Treasurer to apply this definition with respect to pension deficit funding bonds issued prior to July 1, 2006, shall thereafter comply with the provisions of subdivision (3) of subsection (c) of this section.

(3) "Chief executive officer" means [such officer as described in section 7-193] (A) for a municipality as described in section 7-188, such officer as described in section 7-193, (B) for a metropolitan district, such officer as described in the special act, charter, local ordinance or other local law applicable to such metropolitan district, (C) for a district, as defined in section 7-324, the president of its board of directors, (D) for a regional school district, the chairperson of its regional board of education, and (E) for any other municipal corporation having the power to levy taxes and to issue bonds, notes or other obligations, such officer as prescribed by the general statutes or any special act, charter, special act charter, home-rule ordinance, local ordinance or local law applicable to such municipal corporation.

(4) "Enrolled actuary" means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under subtitle C of title III of the Employee Retirement Income Security Act of 1974, as from time to time amended.

(5) "General obligation" means an obligation issued by a municipality and secured by the full faith and credit and taxing power of such municipality.

(6) "Legislative body" means (A) for a regional school district, the regional board of education, and (B) for any other municipality not having the authority to make ordinances, the body, board, committee or similar body charged under the general statutes, special acts or its charter with the power to authorize the issue of bonds by the municipality.

[(6)] (7) "Municipal Finance Advisory Commission" means the Municipal Finance Advisory Commission established pursuant to

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section 7-394b.

[(7)] (8) "Municipality" means a municipality, as defined in section 7-369 or a regional school district.

[(8)] (9) "Obligation" means any bond or any other transaction which constitutes debt in accordance with both municipal reporting standards in section 7-394a and the regulations prescribing municipal financial reporting adopted by the secretary pursuant to said section 7-394a.

[(9)] (10) "Pension deficit funding bond" means any obligation issued by a municipality to fund, in whole or in part, an unfunded past benefit obligation. ["Pension deficit funding bond"] The term "pension deficit funding bond" shall not include any bond issued by a municipality pursuant to and in accordance with the provisions of subsection (g) of this section to pay, fund or refund prior to maturity any of its pension deficit funding bonds previously issued, or any bond issued prior to January 1, 1999, but may include any bond issued by a municipality prior to January 1, 1999, for the sole and exclusive purposes of (A) applying the provisions of subsection (f) of this section in lieu of subsection (c) of section 7-403a, as amended by this act, as the municipality may determine, and (B) requiring the municipality to apply and comply with the provisions of subsections (c) and (d) of this section.

[(10)] (11) "Secretary" means the Secretary of the Office of Policy and Management or the secretary's designee.

[(11)] (12) "Treasurer" means the Treasurer of the state of Connecticut or the Treasurer's designee.

[(12)] (13) "Unfunded past benefit obligation" means the unfunded actuarial accrued liability of the pension plan determined in a method and using assumptions meeting the parameters established by generally accepted accounting principles.

[(13)] (14) "Weighted average maturity" means (A) the sum of the

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products, determined separately for each maturity or sinking fund payment date and taking into account any mandatory redemptions of the obligation, of (i) with respect to a serial obligation, the principal amount of each serial maturity of such obligation and the number of years to such maturity, or (ii) with respect to a term obligation, the dollar amount of each mandatory sinking fund payment with respect to such obligation and the number of years to such payment, divided by (B) the aggregate principal amount of such obligation.

(b) Except as expressly provided in this section, no municipality shall issue any pension deficit funding bond.

(c) Any municipality which has no outstanding pension deficit funding bonds, other than an earlier series of such obligations issued under [section 7-374] subsection (b) of section 7-374b, as amended by this act, or this section to partially fund an unfunded past pension obligation, may authorize and issue pension deficit funding bonds to fund all or a portion of an unfunded past benefit obligation, as determined by an actuarial valuation, and the payment of costs related to the issuance of such bonds in accordance with the following requirements.

(1) The municipality shall, within the time and in the manner prescribed by regulations adopted by the secretary or as otherwise required by the secretary, notify the secretary of its intent to issue such pension deficit funding bonds and shall include with such notice (A) the actuarial valuation, (B) an actuarial analysis of the method by which the municipality proposes to fund any unfunded past benefit obligation not to be defrayed by the pension deficit funding bonds, which method may include a plan of issuance of a series of pension deficit funding bonds, (C) an explanation of the municipality's investment strategic plan for the pension plan with respect to which the pension deficit funding bonds are to be issued, including, but not limited to, an asset allocation plan, (D) a three-year financial plan, including the major assumptions and plan of finance for such pension deficit funding bonds, [prepared in the manner prescribed by the

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secretary, (E) documentation of the municipality's authorization of the issuance of such pension deficit funding bonds, and (F) such other information and documentation, as defined in regulations, as is required by the secretary or the Treasurer to carry out the provisions of this section.] (E) a comparison of the anticipated effects of funding the unfunded past benefit obligation through the issuance of pension deficit funding bonds with the funding of the obligation through the annual actuarially recommended contribution, prepared in the manner prescribed by the secretary, (F) documentation of the municipality's authorization of the issuance of such pension deficit funding bonds including a certified copy of the resolution or ordinance of the municipality authorizing the issuance of the pension deficit funding bonds and an opinion of nationally recognized bond counsel as to the due authorization of the issuance of the bonds, (G) documentation that the municipality has adopted an ordinance, or with respect to a municipality not having the authority to make ordinances, has adopted a resolution by a two-thirds vote of the members of its legislative body, requiring the municipality to appropriate funds in an amount sufficient to meet the actuarially required contribution and contribute such amounts to the plan as required in subdivision (3) of subsection (c) of this section, (H) the methodology used and actuarial assumptions that will be utilized to calculate the actuarially recommended contribution, (I) a draft official statement with respect to the issuance of the pension deficit funding bonds, and (J) such other information and documentation as reasonably required by the secretary or the Treasurer to carry out the provisions of this section. The secretary and the Treasurer may, if they deem necessary, hire an independent actuary to review the information submitted by the municipality.

(2) Not later than ten days after the sale of the pension deficit funding bonds, the municipality shall provide the secretary and the Treasurer with a final financing summary comparing the anticipated effects of funding the unfunded past benefit obligation through the issuance of the pension deficit funding bonds with the funding of the obligation through the annual actuarially recommended contribution,

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<u>prepared in the manner prescribed by the secretary.</u>

[(2)] <u>(3)</u> So long as the pension deficit funding bonds or any bond refunding such bonds are outstanding, the municipality shall (A) [meet any actuarially recommended contribution in] <u>for</u> each fiscal year of the municipality commencing with the fiscal year in which the bonds are issued, <u>appropriate funds in an amount sufficient to meet the actuarially required contribution and contribute such amount to the plan,</u> and (B) notify the secretary annually, who shall in turn notify the Treasurer, of the amount [and] <u>or</u> the rate of any such actuarially recommended contribution and the amount [and] <u>or</u> the rate, if any, of the actual annual contribution by the municipality to the pension plan to meet such actuarially recommended contribution. <u>On an annual basis, the municipality shall provide the secretary and the Treasurer with: (i) The actuarial valuation of the pension plan, (ii) a specific identification, in a format to be determined by the secretary, of any changes that have been made in the actuarial assumptions or methods compared to the previous actuarial valuation of the pension plan, (iii) the footnote disclosure and required supplementary information disclosure required by GASB Statement Number 27 with respect to the pension plan, and (iv) a review of the investments of the pension plan including a statement of the current asset allocation and an analysis of performance by asset class. With respect to a municipality which issues pension deficit funding bonds on or after July 1, 2006, in any fiscal year for which such municipality fails to appropriate sufficient funds to meet the actuarially required contribution in accordance with the provisions of this subdivision there shall be deemed appropriated an amount sufficient to meet such requirement, notwithstanding the provisions of any other general statute or of any special act, charter, special act charter, home-rule ordinance, local ordinance or local law.</u>

[(3)] <u>(4)</u> The municipality shall not issue pension deficit funding bonds prior to, nor more than six months subsequent to, receipt of the written final review required under subsection (d) of this section. A municipality may renotify the secretary of its intention to issue pension deficit funding bonds and provide the secretary with updated

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information and documentation in the manner and as described in subdivision (1) of this subsection, and request an updated final review from the secretary if more than six months will elapse between the receipt of the prior final review of the secretary and the proposed date of issue of the pension deficit funding bonds.

(d) Upon receipt of notification from a municipality that it intends to issue pension deficit funding bonds, the secretary shall inform the Treasurer and the Municipal Finance Advisory Commission of such notification. The secretary and the Treasurer shall review the information and documentation required in subsection (c) of this section and within fifteen days shall notify the municipality as to the adequacy of the materials provided and whether any additional information is required. The secretary and the Treasurer shall issue a written final review to the municipality verifying that the municipality has complied with the provisions of subdivision (1) of subsection (c) of this section and, including any recommendations to the municipality concerning the issuance of pension deficit funding bonds, not later than thirty days following the receipt of such information and documentation. The secretary shall file a copy of such final review with the chief executive officer of the municipality and the Municipal Finance Advisory Commission. If the secretary and the Treasurer fail to provide a written final review to the municipality by the forty-fifth day following the receipt of such information and documentation, such final review shall be deemed to have been received by the municipality.

(e) Except as otherwise provided by this section, the provisions and limitations of this chapter shall apply to any pension deficit funding bonds issued pursuant to the provisions of this section. Such pension deficit funding bonds shall be general obligations of the municipality, and shall be serial bonds maturing in annual or semiannual installments of principal, or shall be term bonds with mandatory annual or semiannual deposits of sinking fund payments into a sinking fund. Notwithstanding the provisions of any other general statute or of any special act, charter, special act charter, home-rule

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ordinance, local ordinance or local law, (1) the first installment of any series of pension deficit funding bonds shall mature or the first sinking fund payment of any series of pension deficit funding bonds shall be due not later than eighteen months from the date of the issue of such series, provided that such first installment shall mature or such first sinking fund payment shall be due not later than the fiscal year of the municipality next following the fiscal year in which such series is issued, and the last installment of such series shall mature or the last sinking fund payment of such series shall be due not later than thirty years from such date of issue, (2) any such pension deficit funding bonds may be sold at public sale on sealed proposal, by negotiation or by private placement in such manner at such price or prices, at such time or times and on such terms or conditions as the municipality, or the officers or board of the municipality delegated the authority to issue such bonds, determines to be in the best interest of the municipality, and (3) no municipality shall issue temporary notes in anticipation of the receipt of the proceeds from the sale of its pension deficit funding bonds.

(f) Proceeds of the pension deficit funding bonds, to the extent not applied to the payment of costs related to the issuance thereof, shall be deposited in the pension plan of the municipality to fund the unfunded past benefit obligation for which the bonds were issued, and, notwithstanding any limitations on the investment of proceeds received from the sale of bonds, notes or other obligations set forth in section 7-400 may be invested in accordance with the terms of said pension plan, as such terms may be amended from time to time.

(g) A municipality may authorize and issue refunding bonds to pay, fund or refund prior to maturity any of its pension deficit funding bonds in accordance with the provisions of section 7-370c, provided, or, with respect to a regional school district, the provision of section 10-60a, notwithstanding the provisions of said [section] sections 7-370c and 10-60a, the weighted average maturity of such refunding bonds shall not exceed the weighted average maturity of the outstanding pension deficit funding bonds being paid, funded or refunded by such

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refunding bonds. The municipality shall notify the secretary, who shall in turn notify the Treasurer, of its intention to issue refunding bonds pursuant to this subsection, not less than fifteen days prior to the issuance thereof, and shall provide the secretary with a copy of the final official statement, if any, prepared for the refunding bonds, not more than fifteen days after the date of issue of such bonds.

(h) The secretary, in consultation with the Treasurer, [shall] may adopt regulations, in accordance with the provisions of chapter 54, as necessary to establish guidelines concerning compliance with the provisions of subsections (c), (d) and (g) of this section.

Sec. 3. Section 7-403a of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) Upon the recommendation of the chief executive officer of a municipality and approval of the budget-making authority of the municipality, the legislative body of any municipality, as defined in section 7-369, may, by a majority vote, create a loss and retiree benefits reserve fund. The provisions of subsection (a) of section 7-450, as amended, regarding the establishment of postemployment health and life benefit systems, shall not affect the provisions of this section.

(b) Upon the recommendation of the chief executive officer and approval of the budget-making authority and the legislative body, there shall be paid into such reserve fund (1) amounts authorized to be transferred thereto from the general fund cash surplus available at the end of any fiscal year, (2) amounts raised by the annual levy of a tax for the benefit of such fund, and for no other purpose, provided such tax shall be levied and collected in the same manner and at the same time as the regular annual taxes of the municipality, or (3) with respect to a reserve fund for property or casualty losses, the proceeds of bonds, notes or other obligations issued pursuant to subsection (b) of section 7-374b, as amended by this act.

(c) The budget-making authority may, from time to time, direct the

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treasurer to invest such portion of such reserve fund as in its opinion is advisable, provided: (1) Not more than forty per cent, or with respect to a reserve fund for retiree benefits for which the budget-making authority has adopted an asset allocation and investment policy, fifty per cent, of the total amount [invested] of the reserve fund shall be invested in equity securities, and (2) [not less than fifty per cent of the total amount invested shall be invested in United States government obligations, United States agency obligations, United States postal service obligations, certificates of deposit, commercial paper, savings accounts and bank acceptances] any portion of such reserve fund not so in invested may be invested in bonds or obligations of, or guaranteed by, the state or the United States, or agencies or instrumentalities of the United States in certificates of deposit, commercial paper, savings accounts and bank acceptances, in the obligations of any state of the United States or any political subdivision thereof or the obligations of any instrumentality, authority or agency of any state or political subdivision thereof, provided at the time of investment such obligations are rated within the top rating categories of any nationally recognized rating service or of any rating service recognized by the Banking Commissioner, and applicable to such obligations, in the obligations of any regional school district in this state, of any municipality in this state or any metropolitan district in this state, provided at the time of investment such obligations of such government entity are rated within one of the top two rating categories of any nationally recognized rating service or of any rating service recognized by the Banking Commissioner, and applicable to such obligations, or in any fund in which a trustee may invest pursuant to section 36a-353, or in investment agreements with financial institutions whose long-term obligations are rated within the top two rating categories of any nationally recognized rating service or of any rating service recognized by the Banking Commissioner or whose short-term obligations are rated within the top rating category of any nationally recognized rating service or of any rating service recognized by the Banking Commissioner, or investment agreements fully secured by obligations of, or guaranteed by, the United States or agencies or

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instrumentalities of the United States.

(d) The treasurer shall submit annually a complete and detailed report of the condition of such fund to the chief executive officer, the budget-making authority and the legislative body and such report shall be made a part of the annual report of the municipality.

(e) Upon the recommendation of the chief executive officer and the budget-making authority and approval by the legislative body, (1) any part or the whole of such fund may be used and appropriated to pay only for property or casualty losses and employee retirement benefits, and expenses related thereto, including court costs and attorneys' fees, incurred by the municipality, or (2) any part or the whole of such fund may be transferred to a trust established to hold and invest the assets of a pension, retirement or other postemployment health and life benefit system of the municipality. Any unexpended portion of such appropriation remaining after such payment, together with all interest accruing on the balance in the fund, shall revert to and be credited to such reserve fund. For the purposes of this section, "property or casualty losses and employee retirement benefits" shall include, but not be limited to, [(1)] (A) motor vehicle liability, physical damage and collision, [(2)] (B) loss or damage to, or legal liability for, real or personal property, [(3)] (C) legal liability for personal injuries or deaths, including but not limited to, workers' compensation and heart and hypertension, and [(4)] (D) retiree health and life benefits.

(f) Such fund may be discontinued, after recommendation by the chief executive officer and the budget-making authority to the legislative body and upon approval of such body, and [such] to the extent there is any remaining portion of such fund, the fund shall be converted into, or added to, a sinking fund to provide for the retirement of the bonded indebtedness of the municipality. If the municipality has no bonded indebtedness, such fund shall be transferred to the general fund of the municipality.

Sec. 4. Subdivision (1) of section 7-425 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July*

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1, 2006):

(1) "Municipality" means any town, city, borough, school district, regional school district, taxing district, fire district, district department of health, probate district, housing authority, regional work force development board established under section 31-3k, regional emergency telecommunications center, tourism district established under section 10-397, flood commission or authority established by special act or regional planning agency.

Sec. 5. Subdivision (3) of section 7-425 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(3) "Legislative body" means, for towns having a town council, the council; for other towns, the selectmen; for cities, the common council or other similar body of officials; for boroughs, the warden and burgesses; for regional school districts, the regional board of education for district departments of health, the board of the district; in the case of a probate district, the judge of probate; for regional planning agencies, the regional planning board; for regional emergency telecommunications center, a representative board; for tourism districts, the board of directors of such tourism district; and in all other cases the body authorized by the general statutes or by special act to make ordinances for the municipality.

Sec. 6. Section 7-450 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) Any municipality or subdivision thereof may, by ordinance, or with respect to a municipality not having the authority to make ordinances, by resolution adopted by a two-thirds vote of the members of its legislative body, establish pension, retirement, or other postemployment health and life benefit systems for its officers and employees and their beneficiaries, or amend any special act concerning its pension, retirement, or other postemployment health and life

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benefit systems, toward the maintenance in sound condition of a pension, retirement, or other postemployment health and life benefit fund or funds, provided the rights or benefits granted to any individual under any municipal pension or retirement system shall not be diminished or eliminated. The legislative body of any such municipality, by resolution adopted by a two-thirds vote of its members, may provide for pensions to persons, including survivors' benefits for widows of such persons, not included in such pension or retirement system.

[(b) The provisions of subsection (a) of this section shall not operate to invalidate the establishment of any postemployment health and life benefit system duly established prior to October 1, 2005, by any municipality or subdivision thereof, pursuant to the provisions of any public or special act, charter, special act charter, home-rule ordinance, local ordinance or local law.]

(b) Notwithstanding the provisions of the general statutes or of any special act, charter, special act charter, home-rule ordinance, local ordinance or other local law, any municipality or subdivision thereof may, by ordinance and amendment thereto, or with respect to a municipality not having the authority to make ordinances, by resolution adopted by a two-thirds vote of the members of its legislative body, (1) establish one or more trusts, or determine to participate in a multiemployer trust, to hold and invest the assets of such pension, retirement or other postemployment health and life benefit system; (2) provide for the management and investment of such system and any such trust, including the establishment of a board or commission or the designation of an existing board or commission for such purposes; or (3) provide for the organization of and the manner of election or appointment of the members of such board or commission. Notwithstanding any limitations on the investment of municipal funds set forth in section 7-400, funds held in any such trust may be invested in accordance with the terms of the pension, retirement or other postemployment health and life benefit plan, as such terms may be amended from time to time. The investment and

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management of the assets of any such trust shall be in compliance with the prudent investor rule as set forth in sections 45a-541 to 45a-451*l*, inclusive.

(c) The provisions of subsections (a) and (b) of this section shall not operate to invalidate the establishment by any municipality or subdivision thereof, pursuant to the provisions of any public or special act, charter, special act charter, home-rule ordinance, local ordinance or local law, of any postemployment health and life benefit system duly established prior to October 1, 2005, or of any trust duly established or board or commission duly established or designated prior to the effective date of this act with respect to a pension, retirement or other postemployment health and life benefit system.

Sec. 7. Section 7-450a of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

(a) Any municipality, in which a pension, retirement, or other postemployment health and life benefit system applicable with respect to any employees of such municipality has been established by ordinance or under the authority of any public or special act, charter or special act charter, shall have prepared, no less often than once every five years commencing July 1, 1977, an actuarial evaluation of such system, including evaluation of accumulated or past service liability and the annual liability related to benefits currently earned under such system. Such evaluation shall be prepared by an actuary enrolled by the joint board for the enrollment of actuaries established under Subtitle C of Title III of the federal act entitled Employee Retirement Income Security Act of 1974, and such evaluation shall be prepared on the basis of such assumptions as to interest earnings, mortality experience, employee turnover and any other factors affecting future liabilities under such system, which in the judgment of such actuary represent the best estimate as to future experience under such system.

(b) No ordinance, resolution or other act altering the pension, retirement, or other postemployment health and life benefit system

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shall be enacted until the legislative body [, as defined in subsection (3) of section 7-425,] of the municipality has requested and received a qualified cost estimate from such enrolled actuary.

(c) Any municipality subject to the requirements in subsection (a) of this section shall have prepared, within six months following the adoption of any amendment to such system increasing benefits to any extent, in addition to such evaluations as required under subsection (a), a revision of the last preceding evaluation reflecting the increase in potential municipal liability under such system. If such amendment is adopted within one year preceding a date on which an actuarial evaluation is required under subsection (a) of this section, an additional evaluation shall not be required.

(d) Any actuarial evaluation prepared for a municipality in accordance with this section shall be delivered to the chief fiscal officer of such municipality who shall file a certified copy thereof with the [town or city clerk] municipal clerk and, with respect to any municipality constituting a multitown district, with the municipal clerk of each such town, for custody in the manner of other public records. A summary of such evaluation, including a statement prepared by the actuary as to the amount of annual payment that should be made for proper funding on the basis of such evaluation with respect to benefits currently earned and the accumulated or past service liability, shall be included in the first annual report of the municipality next following completion of each such evaluation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2006*	7-374b(b)
Sec. 2	*July 1, 2006*	7-374c
Sec. 3	*July 1, 2006*	7-403a
Sec. 4	*July 1, 2006*	7-425(1)
Sec. 5	*July 1, 2006*	7-425(3)
Sec. 6	*July 1, 2006*	7-450
Sec. 7	*July 1, 2006*	7-450a

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PD *Joint Favorable Subst.*

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The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 $	FY 08 $
Treasurer; Policy & Mgmt., Off.	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect
Various Municipalities	See Below

Explanation

State Impact

Section 2 of the bill permits the Office of the State Treasurer and the Office of Policy and Management to hire an independent actuary to review information on pension obligation bonds submitted by municipalities. This may result in some minimal General Fund costs to the extent that these agencies choose do so, which are anticipated to be accommodated within existing budgetary resources.

Municipal Impact

The bill changes the options available to municipalities for funding other post employment benefits[1] (OPEB) plans and revises requirements for municipal issuers of pension obligation bonds (POBs.) The OPEB provisions will help municipalities manage their OPEB liabilities, thereby having a potentially positive impact on their credit ratings and municipal debt costs. For municipalities that have issued POBs, the POB provisions are expected to: (1) reduce funding

[1] OPEB plans include retirement benefits other than pension plans, with the major obligations and liabilities being retiree health insurance benefits.

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volatility for the actuarially recommended contribution (ARC) to pension plans, which will create a more predictable operating budget for municipalities and (2) preclude under funding of the ARC and its associated negative fiscal impacts.

Other Post Employment Benefits (OPEBs)

Currently, most governmental entities pay OPEB expenses on a "pay-as-you-go" basis. Under the new GASB regulations[2], the liabilities attributable to OPEB plans must be actuarially determined and reported on the financial statement of all public sector employers. It is anticipated that the unfunded OPEB plan liability will be sizable - with the actuarially recommended contribution (ARC) potentially being two to six times the annual "pay as-you-go" amount now being spent by municipalities on OPEB expenses.

Although GASB regulations do not require municipalities to fund the OPEB liabilities, the unfunded OPEB liability can be reduced or eliminated over time if the municipality makes the ARC. This payment represents the "normal" cost of the benefits provided and a past service payment that gradually funds the unfunded liability.

The credit rating agencies have indicated that the new GASB reporting requirements are unlikely to have an immediate impact on municipal credit ratings. However, the way towns manage OPEB liabilities may influence future ratings because it is likely that OPEB obligations will be evaluated in the same way that pension obligations are currently evaluated. Just as unfunded pension fund liabilities are considered in the rating process as equivalent to bonded debt of the town, unfunded OPEB liabilities are expected be viewed in a similar way. Historically, poorly funded pension plans have had a negative

[2] The Government Accounting Standards Board (GASB) is responsible for setting standards for those governments (including Connecticut municipalities) that follow generally accepted accounting principles. GASB's Statement 45 will require governmental entities to account for their OPEB plan liability within their financial statements in the manner similar to that currently required for pension plan liability. This requirement will be phased in between 2008 and 2010.

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impact on the town's credit rating. The ratings agencies will likely consider the implications of not only the total OPEB unfunded liability, but also how the OPEB ARC is managed. For example, an increasing net OPEB obligation would be a negative rating factor, just as an increasing net pension obligation would be negative.

The bill does the following:

1. It provides towns with a mechanism for managing OPEB liabilities by permitting them to accumulate funds to cover OPEBs in an irrevocable trust. It also allows municipalities to transfer existing reserve funds to trusts. Under current law, towns can accumulate such funds in a reserve account but the new GASB rules limit the assumed investment rate of return on such funds to a short-term rate (because a town can remove funds from reserve accounts if the money is needed for other purposes.) Under the new GASB rules, actuaries may use a long-term investment return assumption for assets set aside in an irrevocable trust. The advantage of this is that the assumed rate of return on long-term investments is greater than the assumption for short-term investments. Thus, the funds in the trust account will have a higher assumed rate of return than funds in a reserve fund, which will reduce: (1) the present value of future OPEB liabilities, and (2) the town's ARC to the OPEB account.

2. It broadens the investment options available to reserve funds and changes the percentage limits in each category of investments. This may result in higher rates of return on the investments made with reserve account funds for towns that choose to fund their OPEB liability in whole or in part with such accounts.

3. It clarifies the authority of and the requirements to be met by municipalities to establish pension and OPEB plans, including the establishment of trusts, or participating in multi-employer trusts, to fund such systems. In particular, it

clarifies that funds held in such trusts must be invested in conformance with the statutory prudent investor rules generally applicable to trust funds, and not in conformance with the statutory investment restrictions applicable to other municipal funds.

4. It eliminates language that permits municipalities to issue bonds to fund retiree benefit reserve funds. This precludes towns from indirectly funding OPEB trusts through the issuance of bonds at the current time. This is not anticipated to have a short term fiscal impact. (It should be noted that the final report issued by the Municipal POB/OPEB Working Group in January 2006 recommended that legislation permitting the issuance of OPEB bonds should be considered in the future, when more information on the unfunded municipal OPEB liability issue becomes available.)

Pension Obligation Bonds (POBs)

The bills revises requirements for any municipality that issues POBs after July 1, 2006 (or for any municipality that had previously issued POBs under PA 99-182 or others that apply to and receive any necessary approvals from the Secretary of OPM and the State Treasurer.) Specifically, the bill revises the definition of the actuarially recommended contribution (ARC.) Under the bill, the ARC is defined as that which is established by the actuarial valuation and determined in a method and using assumptions established by generally accepted accounting principals. The bill specifies that the amortization schedule used shall be fixed and not longer than the longest of: (1) 10 years or (2) 30 years from the date of issuance of the pension deficit funding bonds.

The revised ARC allows a municipality the advantage of amortizing the unfunded liability over a number of years rather than the current requirement to maintain the same funding ratio that was achieved at the deposit of the proceeds of the POBs. This current law requirement can result is significant fluctuations in the municipality's ARC as a

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result of market conditions and other factors. For example, several years of lower than anticipated investment returns could make it difficult to maintain the post-issuance funding level percentage achieved following the issuance of POBs, as required under current law. The revisions to the ARC are expected to reduce funding volatility, which will create a more predictable operating budget for municipalities. This change is anticipated to make it easier for municipalities to make the ARC consistently.

The bill specifies that the municipality must appropriate funds in an amount sufficient to meet the ARC and contribute such amount to the plan. For any municipality issuing POBs on or after July 1, 2006 that fails to appropriate sufficient funds to meet the ARC, the bill specifies that there shall be "deemed appropriated" an amount sufficient to meet the requirement. Failure to make the ARC increases the unfunded liability of the pension fund in two ways. It results in lost investment opportunity and increased amortization costs. This provision would preclude under funding of the ARC and its associated negative fiscal impacts.

It should be noted that the revisions to the POB requirements only impact municipalities that choose to issue POBs. The POB/OPEB Working Group Report indicated that five municipalities (New Britain, Stratford, Bridgeport, West Haven and Naugatuck) have issued POBs in the State of Connecticut.

Other Provisions

The bill also makes various clarifying and conforming changes to statutory language that have no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

C 067

OLR Bill Analysis
sSB 533

AN ACT CONCERNING MUNICIPAL PENSION DEFICIT FUNDING BONDS.

SUMMARY:

By law, municipalities can issue bonds, subject to the state treasurer and Office of Policy and Management's (OPM) review, to pay for their unfunded pension obligations. This bill makes many substantive and procedural changes to the way municipalities may issue those bonds. Municipal legislative bodies must appropriate funds to the pension plan while the bonds are outstanding and do so according to a fixed schedule. Municipalities must submit annual status reports on the pension plans to the OPM secretary and the state treasurer.

The bill increases the kind of information municipalities must provide to the state before and after they issue pension deficit funding bonds. It also allows regional school districts to issue these bonds if their boards adopt a resolution to do so by a two-thirds vote. Those provisions apply to bonds issued on or after July 1, 2006. The annual contribution requirements apply to earlier bonds if the municipality requested the secretary and treasurer's approval.

The bill gives municipalities more choices for investing retiree benefits reserve funds. It does this by increasing the share that may be invested in equities and allowing the remaining share to be invested in a broader range of government obligations.

The bill allows municipalities to establish trusts to manage and invest retirement system assets.

Lastly, the bill eliminates municipal authorization to issue bonds to fund loss and retiree benefits reserve funds, but limits the loss reserve

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fund to cover property or casualty losses.

EFFECTIVE DATE: July 1, 2006

PENSION DEFICIT FUNDING BONDS

Actuarially Recommended Contribution (ARC)

The law allows municipalities to issue bonds to pay for unfunded past pension benefit obligations. Under current law, those that do must amortize the obligation by contributing the employer normal cost or the ARC, whichever is less. The bill requires a municipality to contribute the ARC according to a fixed payment schedule, the term for which cannot exceed the longest of 10 years or 30 years from the date when the bonds were issued.

The law requires the municipality to begin making the ARCs in the fiscal year when it issued the bonds. The bill requires the municipality to appropriate enough funds to make each contribution and to contribute them to the plan. If it fails to do so, the bill deems the required amount to be appropriated, regardless of any state or local law or ordinance to the contrary.

Information to be Submitted to the State Before Issuing Bonds

The bill expands the kind of information a municipality, including a political subdivision, must submit to OPM before it can issue pension deficit funding bonds. The municipality must compare, in a manner the secretary prescribes, the anticipated effects of funding past benefit obligations by issuing bonds versus making annual actuarially recommended contributions.

It must document the fact that its legislative body adopted an ordinance or resolution requiring the municipality to appropriate enough funds to cover the ARC and contribute that amount to the pension plan while the bonds are outstanding. (A regional school district or other political subdivision that cannot adopt ordinances must document its approval by providing a copy of the resolution adopted by a two-thirds vote of its legislative body authorizing the

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bond sale.)

The municipality must also (1) provide the method used to calculate the actuarially recommended contribution and its assumptions and (2) provide a draft of its official statement for issuing the pension deficit funding bonds.

Current law requires the municipality to submit a three-year financial plan prepared according to OPM's specifications. The bill requires the plan to include its major assumptions but drops the requirement that it conform to the secretary's rules. It requires the municipality to provide a certified copy of the resolution or ordinance authorizing the bond sale and an opinion by a nationally recognized bond counsel as to the due authorization to issue the bonds. The municipality must also provide any information the secretary and treasurer request, not just information he specifies in regulations.

By law, the municipality must also submit:

1. the actuarial valuation of the pension plan's normal cost, accrued liability, asset value, and related present values;
2. an actuarial analysis of how the town plans to pay for any unfunded past benefit obligations the bonds will not offset;
3. an explanation of the town's strategic investment plan for the pension plan, including an asset allocation plan; and
4. any other information the OPM secretary or the state treasurer requires by regulation.

The bill allows the secretary and the treasurer to hire an independent actuary to review the information the municipality provided.

Information to be submitted after the Bonds are Issued

The bill requires the municipality to submit a final financing summary to the secretary and the treasurer within 10 days after it

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issues the bonds. The summary must compare the anticipated effects of funding past benefit obligations by issuing bonds versus doing so by making annual ARCs. The municipality must prepare the summary in the manner the secretary requires.

Pension Fund Annual Status Report

The bill requires the municipality to report annually on the plan's status to the secretary and the treasurer. In doing so, it must provide:

1. the plan's actuarial valuation;
2. specific identification, in format the secretary prescribes, of any changes in the actuarial assumptions or methods compared to the plan's previous actuarial valuation;
3. the footnote disclosure and required supplementary information required by Government Accounting Board Statement 27 (see BACKGROUND); and
4. a review of the plan's investments, including a statement of the plan's current asset allocation and an analysis of the plan's performance by each asset class.

Regulations

The bill allows, rather than requires, the secretary to adopt regulations for reviewing and approving the way municipalities can issue pension deficit bonds.

RESERVE FUND INVESTMENTS

The law allows municipalities to establish loss and retiree benefit reserve funds. Current law allows them to invest up to 40% of the reserve fund in equities. With respect to retiree benefit funds, the bill increases the share to 50% if the municipality's budget-making authority adopted a policy for investing those funds in a way that achieves the fund's goals while minimizing its risks (i.e., asset allocation and investment policy).

[106]

The bill also allows municipalities to invest the remaining share of a loss or retiree benefit fund in a broader range of government obligations. Current law allows the municipality to invest no less than 50% of the funds in U.S. government obligations. The bill allows it also to invest in state and municipal government obligations if they meet certain criteria at the time when it invests the funds. The obligations must fall within the top rating categories of any nationally recognized rating service or one that the banking commissioner recognizes.

A similar requirement applies to obligations issued by Connecticut's political subdivisions. The municipality can invest in these obligations if they are rated, when it invests the funds, within one of the top two rating categories of any nationally recognized rating service or one that the banking commissioner recognizes.

The bill also allows the municipality to invest the remaining share in:

1. any U.S.-registered investment company or investment trust whose portfolio is limited to U.S. government obligations,
2. investment agreements with a financial institution, and
3. U.S.-secured or -guaranteed investment agreements.

The municipality may invest in an investment agreement with a financial institution if its long-term obligations are rated within the top two rating categories of any nationally recognized rating service or any rating service the banking commissioner recognizes. Alternatively, it may invest in an agreement whose short-term obligations are rated within the top rating category of any nationally recognized rating service or one that the banking commissioner recognizes.

The bill allows the municipality to transfer some or all of the funds to a trust established to hold and invest the assets of the municipality's pension, retirement, or post employment health and life benefit system. The municipality may do this if its chief executive officer and the budget authority recommend it and the legislative body approves

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it. Under GABS Statement 45, the municipality receives a higher actuarial assumed rate of return and may count the return on investment against its other post employment liabilities

ESTABLISHING TRUST FUNDS FOR RETIREMENT PENSION AND RETIREMENT SYSTEMS

The bill allows municipalities, including other state political subdivisions, to establish trusts to hold and invest their retirement system's assets. A municipality can do this by adopting an ordinance or amending the one establishing the system. Regional school districts and other political subdivisions that do not enact ordinances can establish trusts through a resolution of their legislative body adopted by two-thirds vote.

A municipality may establish one or more trusts or participate in a multi-employer trust. It can also specify how the retirement system and the trust must be managed and its assets invested. It may establish a board or commission to perform this task or assign it to an existing one. It can specify how the board or commission must be organized and require its members to be elected or appointed.

The trust must invest the system's assets as the system requires. But it must comply with the statutory standards for the prudent investor.

The bill does not invalidate any post employment health and life benefit system a municipality established or designated before October 1, 2005. Nor does it invalidate any trust, board, or commission that was established or designated before July 1, 2006.

Under the bill, municipalities must continue to subject their retirement systems to an actuarial evaluation every five years. Their chief fiscal officer must receive the evaluation, and he must deliver a certified copy to the town or municipal clerk. The officer of a regional school district or other multi-town district must submit a certified copy to each town's clerk.

BACKGROUND

[1067]

GABS Statements 27 and 45

The annual pension fund status report the bill requires must include the information GABS statements 27 and 45 require. GASB is a subsidiary of the nonprofit Financial Accounting Foundation and sets financial accounting standards for state and local government entities. The foundation's trustees appoint the board.

Statement 27 sets standards for measuring, recognizing, and displaying pension fund expenditures and expenses and related liabilities, assets, and note disclosures. It also sets standards for the supplementary information state and local employers must include in their reports when that information is required.

Statement 45 sets standards for measuring and recognizing other post employment-benefit cost (OPEB) over a period of years that approximates employees' years of service. It also provides information about actuarial accrued liabilities associated with OPEBs and whether, and to what extent, progress is made in funding the pension plan.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute
Yea 15 Nay 1 (03/13/2006)

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STATE OF CONNECTICUT
QUI TRANSTULIT SUSTINET

General Assembly

[SSA.] **Amendment** [A.]

February Session, 2006

LCO No. **4508**

Offered by:
SEN. COLEMAN, 2nd Dist.

To: Subst. Senate Bill No. **533** File No. 138 Cal. No. 135

"AN ACT CONCERNING MUNICIPAL PENSION DEFICIT FUNDING BONDS."

In line 48 after the period insert the following: "In the event that the funding ratio of the pension plan, as determined immediately succeeding the deposit of the proceeds of the pension deficit funding bonds in such pension plan, is reduced by thirty per cent or more, the maximum permitted term of such amortization schedule shall be reduced by the same percentage."

In line 322, strike "bonds" and insert ": (A) Bonds" in lieu thereof

In line 324, strike "in" and insert "(B)" in lieu thereof

In line 325, strike "in" and insert "(C)" in lieu thereof

In line 332, strike "in" and insert "(D)"in lieu thereof

In line 338, strike "or" and insert "(E)" in lieu thereof

In line 339, strike "or" and insert "(F)" in lieu thereof

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In line 345, after "or" insert "(G)"

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SENATE AMENDMENT

A

Calendar: 135

LCO: 4508

Bill: 533

ADOPTED voice ☒ REJECTED voice ☐

ADOPTED roll ☐ REJECTED roll ☐

General Assembly

[SENATE] **Amendment**

February Session, 2006

LCO No. **4487**

•SB00533O4487SDO•

Offered by:
SEN. COLEMAN, 2nd Dist.

To: Subst. Senate Bill No. **533** File No. 138 Cal. No. 135

"AN ACT CONCERNING MUNICIPAL PENSION DEFICIT FUNDING BONDS."

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In line 338, strike "or" and insert "(E)" in lieu thereof

In line 339, after "or" insert "(F)" in lieu thereof

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SENATE AMENDMENT

Calendar: 135

LCO: 4487

Bill: 533

ADOPTED voice ☐ REJECTED voice ☐

ADOPTED roll ☐ REJECTED roll ☐

REPORT ON BILLS FAVORABLY REPORTED BY COMMITTEE

COMMITTEE: **Planning and Development Committee**

File No.: 2531
Bill No.: SB-533
PH Date: 3/3/2006
Action/Date: March 13, 2006
Reference Change: To the Floor

TITLE OF BILL:

AN ACT CONCERNING MUNICIPAL PENSION DEFICIT FUNDING BONDS.

SPONSORS OF BILL:

Planning & Development Committee

REASONS FOR BILL:

Revise and clarify the statutes that concern retirement benefits (health, life and Other Post Employment Benefits, OPEB) for municipal employees and allow the transfer of funds to pensions and benefit trusts, and update the issuance of pension obligation bonds by municipalities.

Substitute language: Add at line 313 in Sec. 3 the following: or with respect to a reserve fund for retiree benefits for which the budget-making authority has adopted an asset allocation and investment policy, fifty per cent.

RESPONSE FROM ADMINISTRATION/AGENCY:

Office of State Treasurer – Jill Ferraiolo & Office of Policy and Management – Robert Dakers

SB 533 is a product of a Fall 2005 working group assembled by OPM and the State Treasurer, which was prompted by "GASB", Government Accounting Standards Board, statements 43 and 45. Municipalities are bound to funding "OPEBS" beginning FY 2008 and establishes a fixed period of no more than 30 yrs for the amortization of unfunded actuarial accrued liabilities conforming to the parameters established by GASB, revise the definition of annual required contribution, and require additional information to be submitted by a municipality proposing to issue Pension Obligation Bond's in order to assist policymakers in meeting their due diligence responsibilities under existing law. Also clarifies the "prudent investor rule" which allows added flexibility in the investment of assets.

NATURE AND SOURCES OF SUPPORT:

Government Finance Officers Association – Robert Curry, President

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SB533, 1067

This bill promotes fiscal responsibility by requiring the municipalities that issue Pension Obligation Bonds and make 100% of the Annual Required Contribution each year.(This determined amount will help keep pension trust funds healthy.

CT Conference of Municipalities

The Fall 2005 working group made four recommendations for POB's and four regarding OPEB's, the following are CCM concerns to certain recommendations: POB recommendations – require a municipality issuing POB"s to meet its annual required contribution (ARC) so that contribuition are done on a timely basis, CCM is concerned that since the State does not meet its ARC for the teacher's retirement fund, why should municipalities do it for their retirees?; revise the definition of the ARC to reduce its annual variation, CCM is concerned that it would limit the volatility in municipalities' ARC. OPEB recommendations – Make various revisions to the State statutes clarifying and expanding on the statutory amendments adopted in 2005 Session, CCM feels this is important because it clarifies what rules are regarding OPEB, for which GASB requires reporting starting next year; change the language to allow municipalities to transfer funds into a retiree benefit reserve fund into an OPEB fund, CCM likes this because a trust fund has more favorable investing rules and those more favorable rules lower a municipality's ARC; allow flexibility in the investment of assets for municipalities that opt to fund OPEB and pension/retirement "systems" through a reserve fund (as opposed to a trust fund, CCM likes this because it gives more flexibility for municipalities to invest for their employees' retirements. The Overall package of SB 533 has benefits to cities and towns, but this could change if the bill changes.

Town of Manchester – Alan J. Desmarais, Director of Finance

SB 533 clarifies the data and information required from municipalities which wish to issue POB's. It also includes timely changes in response to the accounting requirements outlined in GASB statement 45, and the changes will assist municipalities with meeting these new fiscal and reporting requirements.

NATURE AND SOURCES OF OPPOSITION:

None Expressed

Eric C. Stroker	March 20, 2006
Reported by	Date

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OFFICE OF FISCAL ANALYSIS

Legislative Office Building, Room 5200
Hartford, CT 06106 ◇ (860) 240-0200
http://www.cga.ct.gov/ofa

sSB-533
AN ACT CONCERNING MUNICIPAL PENSION DEFICIT FUNDING BONDS.
As Amended by Senate "A" (LCO 4508)
House Calendar No.: 451
Senate Calendar No.: 135

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 $	FY 08 $
Treasurer; Policy & Mgmt., Off.	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect
Various Municipalities	See Below

Explanation

State Impact

Section 2 of the bill permits the Office of the State Treasurer and the Office of Policy and Management to hire an independent actuary to review information on pension obligation bonds submitted by municipalities. This may result in some minimal General Fund costs to the extent that these agencies choose do so, which are anticipated to be accommodated within existing budgetary resources.

Municipal Impact

The bill changes the options available to municipalities for funding

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Primary Analyst: LM
Contributing Analyst(s): CG

5/10/06

other post employment benefits[1] (OPEB) plans and revises requirements for municipal issuers of pension obligation bonds (POBs.) The OPEB provisions will help municipalities manage their OPEB liabilities, thereby having a potentially positive impact on their credit ratings and municipal debt costs. For municipalities that have issued POBs, the POB provisions are expected to: (1) reduce funding volatility for the actuarially recommended contribution (ARC) to pension plans, which will create a more predictable operating budget for municipalities and (2) preclude under funding of the ARC and its associated negative fiscal impacts.

Other Post Employment Benefits (OPEBs)

Currently, most governmental entities pay OPEB expenses on a "pay-as-you-go" basis. Under the new GASB regulations[2], the liabilities attributable to OPEB plans must be actuarially determined and reported on the financial statement of all public sector employers. It is anticipated that the unfunded OPEB plan liability will be sizable – with the actuarially recommended contribution (ARC) potentially being two to six times the annual "pay as-you-go" amount now being spent by municipalities on OPEB expenses.

Although GASB regulations do not require municipalities to fund the OPEB liabilities, the unfunded OPEB liability can be reduced or eliminated over time if the municipality makes the ARC. This payment represents the "normal" cost of the benefits provided and a past service payment that gradually funds the unfunded liability.

The credit rating agencies have indicated that the new GASB

[1] OPEB plans include retirement benefits other than pension plans, with the major obligations and liabilities being retiree health insurance benefits.
[2] The Government Accounting Standards Board (GASB) is responsible for setting standards for those governments (including Connecticut municipalities) that follow generally accepted accounting principles. GASB's Statement 45 will require governmental entities to account for their OPEB plan liability within their financial statements in the manner similar to that currently required for pension plan liability. This requirement will be phased in between 2008 and 2010.

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reporting requirements are unlikely to have an immediate impact on municipal credit ratings. However, the way towns manage OPEB liabilities may influence future ratings because it is likely that OPEB obligations will be evaluated in the same way that pension obligations are currently evaluated. Just as unfunded pension fund liabilities are considered in the rating process as equivalent to bonded debt of the town, unfunded OPEB liabilities are expected be viewed in a similar way. Historically, poorly funded pension plans have had a negative impact on the town's credit rating. The ratings agencies will likely consider the implications of not only the total OPEB unfunded liability, but also how the OPEB ARC is managed. For example, an increasing net OPEB obligation would be a negative rating factor, just as an increasing net pension obligation would be negative.

The bill does the following:

1. It provides towns with a mechanism for managing OPEB liabilities by permitting them to accumulate funds to cover OPEBs in an irrevocable trust. It also allows municipalities to transfer existing reserve funds to trusts. Under current law, towns can accumulate such funds in a reserve account but the new GASB rules limit the assumed investment rate of return on such funds to a short-term rate (because a town can remove funds from reserve accounts if the money is needed for other purposes.) Under the new GASB rules, actuaries may use a long-term investment return assumption for assets set aside in an irrevocable trust. The advantage of this is that the assumed rate of return on long-term investments is greater than the assumption for short-term investments. Thus, the funds in the trust account will have a higher assumed rate of return than funds in a reserve fund, which will reduce: (1) the present value of future OPEB liabilities, and (2) the town's ARC to the OPEB account.

2. It broadens the investment options available to reserve funds and changes the percentage limits in each category of

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investments. This may result in higher rates of return on the investments made with reserve account funds for towns that choose to fund their OPEB liability in whole or in part with such accounts.

3. It clarifies the authority of and the requirements to be met by municipalities to establish pension and OPEB plans, including the establishment of trusts, or participating in multi-employer trusts, to fund such systems. In particular, it clarifies that funds held in such trusts must be invested in conformance with the statutory prudent investor rules generally applicable to trust funds, and not in conformance with the statutory investment restrictions applicable to other municipal funds.

4. It eliminates language that permits municipalities to issue bonds to fund retiree benefit reserve funds. This precludes towns from indirectly funding OPEB trusts through the issuance of bonds at the current time. This is not anticipated to have a short term fiscal impact. (It should be noted that the final report issued by the Municipal POB/OPEB Working Group in January 2006 recommended that legislation permitting the issuance of OPEB bonds should be considered in the future, when more information on the unfunded municipal OPEB liability issue becomes available.)

Pension Obligation Bonds (POBs)

The bills revises requirements for any municipality that issues POBs after July 1, 2006 (or for any municipality that had previously issued POBs under PA 99-182 or others that apply to and receive any necessary approvals from the Secretary of OPM and the State Treasurer.) Specifically, the bill revises the definition of the actuarially recommended contribution (ARC.) Under the bill, the ARC is defined as that which is established by the actuarial valuation and determined in a method and using assumptions established by generally accepted accounting principals. The bill specifies that the amortization schedule

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used shall be fixed and not longer than the longest of: (1) 10 years or (2) 30 years from the date of issuance of the pension deficit funding bonds.

The revised ARC allows a municipality the advantage of amortizing the unfunded liability over a number of years rather than the current requirement to maintain the same funding ratio that was achieved at the deposit of the proceeds of the POBs. This current law requirement can result is significant fluctuations in the municipality's ARC as a result of market conditions and other factors. For example, several years of lower than anticipated investment returns could make it difficult to maintain the post-issuance funding level percentage achieved following the issuance of POBs, as required under current law. The revisions to the ARC are expected to reduce funding volatility, which will create a more predictable operating budget for municipalities. This change is anticipated to make it easier for municipalities to make the ARC consistently.

The bill specifies that the municipality must appropriate funds in an amount sufficient to meet the ARC and contribute such amount to the plan. For any municipality issuing POBs on or after July 1, 2006 that fails to appropriate sufficient funds to meet the ARC, the bill specifies that there shall be "deemed appropriated" an amount sufficient to meet the requirement. Failure to make the ARC increases the unfunded liability of the pension fund in two ways. It results in lost investment opportunity and increased amortization costs. This provision would preclude under funding of the ARC and its associated negative fiscal impacts.

It should be noted that the revisions to the POB requirements only impact municipalities that choose to issue POBs. The POB/OPEB Working Group Report indicated that five municipalities (New Britain, Stratford, Bridgeport, West Haven and Naugatuck) have issued POBs in the State of Connecticut.

Senate "A" requires municipalities to reduce the term of POB issuance if their pension plan's funding ratio is reduced by 30% or

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more[3], at any time after the POB proceeds are deposited into the pension fund. (The POB term of issuance must be reduced by the same percentage as the pension funding ratio.) This provision establishes conditions to prevent municipalities from under funding the ARC and does not the change the fiscal impact described above.

Senate "A" also makes several minor technical changes that have no fiscal impact.

Other Provisions

The bill also makes various clarifying and conforming changes to statutory language that have no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation. .

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either House thereof for any purpose.

[3] Such a reduction could result from a variety of unforeseen circumstances like a poor rate of return on pension fund investments or a budget crisis that forces a municipality to reduce its current year pension fund contributions.

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