

April 11, 2017



Senator Jeanette White, Chair, Senate Government Operations Committee
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Dear Senator White:

In response to the Senate Government Operations Committee’s request, VLCT sent out an email to our membership for input with respect to H.5. In addition to explaining the scope of the H.5 as proposed from the House, we stated that the Senate Government Operations Committee was exploring whether to extend the approach of using the Uniform Prudent Management of Institutional Funds Act investment model when municipal Trustees of Public Funds invest other public dollars beyond cemetery funds. We specifically asked these three questions, and below is the summation of the responses we received over the last five days:

1. What has been your experience, if any, with investing public funds?
2. Where and in what kind of instruments has your municipality invested?
3. Do you have recommendations for how the statute should allow municipal officials to invest public funds?

Municipality	Respondent	Feedback
Calais	Trustee of Public Funds	<p>Calais had asked for the introduction of H.5 to “expand investment opportunities of Cemetery Funds so that we could get a higher rate of return by investing in the VT Community Loan Fund. At this time, it might be best to have H.5 look at this and not at the investment of other funds.</p> <p>If the bill is expanded it will then have to go back to the House and that could make it less likely to pass for cemeteries this year. My suggestion is to really focus on cemetery funds and we don’t think it should be expanded to general municipal funds The key reason for this is that cemetery funds are long-term funds, while municipal funds are short-term and very low-risk. Since cemetery funds need to provide perpetual care they have a very long investment time horizon like other endowment funds. This is often not the case for other municipal funds. So mixing the two into one bill is awkward and may result in the failure of H.5 to pass. If we can get H.5 through, we can see how it works out and if it works well, we could then think about expanding this approach to other municipal funds.”</p>

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Barre City	Clerk and Treasurer	<p>“Barre City would welcome changes to the cemetery investment laws. My only concern is having the language limited to elected Trustees of Public Funds. By charter, Barre City is the holder of our cemetery perpetual care accounts. It would be beneficial to the city be able to increase our investment options. But perhaps we have the option already, once the voters approved doing away with our cemetery commission and giving the city council control of the cemetery. This probably needs more research on my part, but overall, I support the bill.”</p>
Killington	Clerk and Treasurer	<p>“Does this affect cemetery commissions? The town of Killington has not invested funds since the interest rate tanked almost 10 years ago. We use to invest in CDs when interest rates were high. We also had 2 tax payments back then and collected the June Education Tax monies in December. Trustees of Public Funds would not necessarily have the best knowledge of how to invest funds. We did have one Trustee financially savvy and there was a very small investment account that she was overseeing which had been left to the Elementary School. The fund was so small and not doing much so she convinced the other Trustees and the Selectboard to disburse the monies to the school to use for technology.</p>
Town of Rutland	Cemetery Commissioner	<p>“I would support H.5 and expand it to all public funds. Several years ago the cemetery I am chairman of received a large bequest. I contacted to the state treasurer’s office looking for investment guidance. He responded at that time with guidelines used by the state for investing state funds. He also showed me a state statute that allows cemeteries to own stock up to 50% of the cemetery money. As a result I moved the cemetery perpetual funds and the Sutton funds to an investment counselor who handles cemeteries, churches, and nonprofits. With his advice we have grown our money at an average rate of 5-6%. This is much better than CDs offered by banks and safer in my opinion than owning stocks. At the time of the 2008 crash he moved our funds to more secure bonds at the time and protected the original amounts. Even though we lost a small amount of total funds most of the money was retained. This relationship has served our cemetery well and has kept us solvent. Our cemetery has not had to use any taxpayer money to support operations. I would totally support this bill.”</p>
Guilford	Trustee of Public Funds	<p>“The Town of Guilford Trustees of Public Funds a few years ago wished to take action on one of the Town Trust Funds which a family had set up with the Town as a permanent fund to provide scholarships for</p>

		<p>Town residents to assist with costs of higher education. The Funds, commingled with other Town Trust Funds, was languishing in a consolidated account at a commercial bank designated to handle such municipal funds. The return on that investment was negligible, and well below that which could provide enough return to fund even a small, single annual scholarship.</p> <p>The Trustees of Public Funds decided to look in to a more aggressive, yet nonetheless carefully considered, investment for this scholarship fund. We looked at Vermont Statute noting the very sketchy guidelines on permissible types of investment. We decided that a good course of investment, rather than directly ourselves making choices on particular instruments, would be to place our Fund with a reputable investment advisor service, and we chose Edward Jones & Co., as they have local offices in our nearby commercial center, Brattleboro. We determined that the capitalization requirements specified in VSA. would easily be met by having our Edward Jones rep guide us in the selection of a group of broad-based mutual funds, similar to the sorts of funds typically used in retirement and pension plans.</p> <p>One concern we had was that, as is common with such investments, we would have to commit a percentage (in this case, 3.5% of our \$100,000 principle to cover the cost of the up-front load, a fee to Edward Jones in order to establish our account with them. It seemed to us that, as this would impinge upon the principle in what was set up to be a “permanent fund.” The family setting up the Trust had, as usual in such cases, stipulated that this was to be a Permanent Fund, with scholarships paid out of any return on the Fund.</p> <p>This seemed uncharted territory for us so we consulted with a legal staff member at VLCT who provided us with a considerable amount of good material, which gave support to the position that if Trustees act in good faith in making an investment, with the goal of improving that investment, that we could proceed with confidence, which we did.</p> <p>(Happily, as it turned out, we began our investment with Edward Jones during a market upswing, and almost immediately recovered the \$3,500 value of the load fee, and from that point the mutual fund did well. By the following year, we were able to disburse \$2,000 to the Town to allow a Scholarship Committee appointed by the Selectboard to grant several small</p>
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Chester	Town Manager	<p>“The Town of Chester has two funds that are invested in a mix of bonds and equities. The Trustees of Public Funds manages one of them. The Selectboard oversees the other. Both are invested with People’s United Wealth Management division.</p> <p>While there have been years; 2008 in particular when the fund value went down, over the long term, the gains have been good.</p> <p>I think the Chester funds have been growing around 4-5% per year. But remember, there have been down years; that average incorporates the downs with the ups.</p> <p>Using a mixed approach with both bonds and equities is the best idea. Equities are further broken down to Large Companies, International, Emerging Markets and so on. There is a great deal of diversity which adds to the safety. Even if one category is going down, another is likely to be going up.</p> <p>The ultimate advice you will hear is don’t listen to the daily financial news; invest for the long-term. History shows that a properly managed account will grow.”</p>
Hyde Park	Town Administrator	<p>“The Selectboard should retain this control – certainly not add responsibilities to a position that is headed the way of town service officers, weighers of coal...etc. This bill is not necessary and creates the potential for elected individuals with no idea of finance to misappropriate, poorly invest – so keep this under the Selectboard. Think – appointing town treasurers.</p> <p>See this from Highgate – which clearly identifies the risk of uncertainty in managing public funds across VT (no consistency and most likely, little oversight): Highgate website – [Trustees of Public Funds shall be elected from among the legal voters at the annual meeting if the town so directs. The duty of the three</p>

		<p>trustees is to manage real or personal property held by the town in trust for any purpose, Vermont statute specifically grants the trustees of public funds responsibility for cemetery trust funds. This creates some overlap of responsibility for cemetery funds among trustees, cemetery commissioners and town treasurers. It appears that if trustees of public funds are elected, they have primary responsibility for the investment of the cemetery funds and for the annual reporting on them. How this is practically worked out amongst the cemetery trustees, treasurer and trustees of public funds is probably the result of each town's unique arrangements.]</p> <p>Bill H.5 should result in a change next year to 24 V.S.A. §2431 to match 24 V.S.A. §2401 – grants the Selectboard control over public lands – same should happen for public funds (cemetery, trusts, investments).”</p>
North Hero	Clerk and Treasurer	<p>What has been your experience, if any with investing public funds? A – “Minor – as a small town out investments are relatively simple.”</p> <p>Where and in what kinds of instruments has your municipality invested? A – “People’s United CDs.”</p> <p>Do you have recommendations for how the statute should allow municipal officials to invest public funds? A – “My two cents – I’m not a fan of donor directed appropriations as this would seem to allow for micro management of its use.”</p>
Pittsford	Trustee of Public Funds	<p>“The Pittsford Town Manager asked if I would comment on H.5. I have been a member of the Trustees of Public Funds for Pittsford for some 15+ years. We manage several funds on behalf of both the town and the school.</p> <p>The current Pittsford cemetery fund is worth \$39,675. For the last 5 years it has received annual donations of \$2,000 and earning (saving acct) of \$220-270 while having no expenditures. This would have been an ideal funds for the Trustees to manage. The funds that we have managed over that period of time have realized 5-7% returns.</p> <p>H.5 is a good idea.”</p>

Groton	Selectboard	<p>“I was on a Cemetery Commission for over 20 years and I am now a Selectboard member in my town of Groton, VT.</p> <p>We had looked into investing Cemetery Funds to achieve a greater return. We had looked into investing Cemetery Funds to achieve a greater return. We interviewed several financial advisers before we learned that we were not allowed to make this type of investment. The process felt dangerous to some degree because it was so hard to assess the risk as it was described. We couldn’t figure out who to trust and knew that a commitment such as that would likely outlive any of our tenures as Commissioners.</p> <p>In 2008 I was so grateful we had not made that kind of investment.</p> <p>I do not believe that the potential gain from investing public funds in securities of any kind is worth the risk. In large part due to the reality that Public Officers change over time, the expertise of financial advisers is extremely difficult to assess, and that our financial markets are not the trustworthy institutions they might have been in years past.”</p>
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We hope you find this information helpful, and we look forward to continuing discussions around H.5 with you committee. We urge you to pass H. 5 and consider deferring consideration of including other funds until there has been a more comprehensive discussion of the implications.

Regards,

Gwynn Zakov, Esq.
Public Policy Advocate