

# SENATE BILL REPORT

## SSB 5270

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As Passed Senate, March 10, 1997

**Title:** An act relating to the operation of the state investment board.

**Brief Description:** Authorizing the state investment board to create public entities for the purposes of handling real estate and other investment assets.

**Sponsors:** Senate Committee on Financial Institutions, Insurance & Housing (originally sponsored by Senators Winsley and Snyder; by request of State Investment Board).

**Brief History:**

**Committee Activity:** Financial Institutions, Insurance & Housing: 1/29/97, 1/30/97, 2/4/97 [DPS].

Passed Senate, 3/10/97, 47-1.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, INSURANCE & HOUSING

**Majority Report:** That Substitute Senate Bill No. 5270 be substituted therefor, and the substitute bill do pass.

Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

**Staff:** Catherine Mele (786-7470)

**Background:** The Legislature created the Washington State Investment Board in 1981 to administer public trust and retirement funds. There are 14 members that serve on the board: one representative of retired public employees; one representative of retired law enforcement officers and fire fighters; one representative of retired teachers; the State Treasurer; a member of the state House of Representatives; a member of the state Senate; a representative of retired state employees; the Director of the Department of Labor and Industries; the Director of Retirement Systems; and five nonvoting members appointed by the State Investment Board with experience in making investments.

The State Investment Board manages 23 funds which total approximately \$35 billion. The funds are divided into three classes: retirement, insurance, and permanent.

Washington law requires that the State Investment Board establish investment policies and procedures that are designed exclusively to maximize return at a prudent level of risk. However, the Department of Labor and Industries' accident, medical aid, and reserve funds, investment policies and procedures are designed to limit fluctuations in industrial insurance premiums, and subject to that purpose, maximize returns at a prudent level of risk.

In order to achieve its investment goals the board divides specific areas of responsibility to committees of the board. The board committees consist of selected board members that act as extensions of the board. These committees analyze investment issues in detail, and make

recommendations to the full board. The board has established four committees: administrative, audit, private markets, and public markets.

It has been suggested that the board safeguard its funds from liabilities that may result from investments where losses could exceed the amount invested. An example of this type of investment is real estate that may become subject to an exceptional assessment. In order to assure that future liabilities are limited to the amount invested, it is recommended that the board have the ability to create separate entities that hold these investments, such as public corporations, limited liability companies, or limited partnerships. By holding these investments in separate entities, the board could limit potential liability to the amount invested.

Income from board funds is considered state funds and must be deposited in a financial institution that meets the requirements of the Public Deposit Protection Commission. Concern has been expressed that outside managers, investment advisors, and entities created by the board are subject to these requirements before distributions have been made to the board.

**Summary of Bill:** The State Investment Board is authorized to create corporations, limited liability companies, and limited partnerships. The liability of each entity created by the board is limited to the amount of investment held by that entity. Entities created by the board may be authorized by the board to make any investment the board can make. The directors, officers or other appointees to these holding entities must be board members, board staff, or employees and agents of managers or investment advisors.

Any entity created by the board is to have the same exemption from taxation as the state of Washington. However, holding entities created by the State Investment Board will pay an amount equal to the taxes levied upon real property and personal property as if the property were held in private ownership. Rents and other income held for investment by the board or held by an entity created by the board are not subject to the requirements of the Public Deposit Protection Commission until distributions are made to the board.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** This bill is needed to limit liabilities which may be incurred to the value of the investment made by the State Investment Board. This shields from liability the remainder of the funds. Limiting liability this way is a prudent course commonly used in other states with broad investment authority like the State Investment Board. Without clarifications regarding cash management and state deposit procedures, the managers of real estate could be subject to an array of burdensome procedures. Since these managers are not state agencies, they should not be subject to these procedures.

**Testimony Against:** None.

**Testified:** James F. Parker, Washington State Investment Board (pro).

**House Amendment(s):** The House amendments limit investments that can be made by the entities created by the board to real estate or other not readily marketable assets. Not readily marketable assets are assets that are not publicly traded on a daily basis, or on an organized exchange.