

SENATE BILL REPORT

SB 5563

As Reported By Senate Committee On:
Financial Institutions, Insurance & Housing, February 26, 1997

Title: An act relating to credit unions.

Brief Description: Regulating credit unions.

Sponsors: Senators Winsley, Prentice, Kohl and Kline.

Brief History:

Committee Activity: Financial Institutions, Insurance & Housing: 2/11/97, 2/26/97 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 5563 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: A credit union is a not-for-profit financial institution created to serve groups in a field of membership. The field of membership may be one of occupation, association, or a well-defined neighborhood, community, or rural district.

Credit unions doing business in Washington can be chartered by the state or federal government. The National Credit Union Administration regulates federally-chartered credit unions, and the Department of Financial Institutions regulates state-chartered institutions. There are approximately 200 credit unions in Washington. Of this total, the state has approximately 100 state-chartered credit unions.

The Washington Credit Union Act provides for the organization and powers of state credit unions. The act also gives the Department of Financial Institutions examination and supervision authority over state-chartered credit unions.

In 1996, the Washington Credit Union League held meetings to produce suggested revisions to the Washington State Credit Union Act. The group desired to make the act more modern, and to clarify certain sections of the act. In addition, the group wanted to provide the state regulator with more authority to regulate troubled credit unions.

Summary of Substitute Bill: Several changes are made to the Washington Credit Union Act.

Many definitions are deleted and new definitions are added. Insolvency, material violation of the law, unsafe and unsound condition, and unsafe and unsound practice are specifically defined.

Changes are made that enable credit union boards of directors to have more discretion. Field of membership bylaws may only be amended with the approval of the board and the director.

A statutory fiduciary duty for officers and directors is created. Officers and directors who do not fulfill their fiduciary duties can be removed or suspended. There are specific requirements for the supervisory committee to conduct an annual audit. Directors and committee members are permitted to be reimbursed for expenses for not only themselves, but for their spouses when they engage in board duties.

A credit union is authorized to borrow money up to a maximum of 50 percent of total shares, deposits, and net capital, instead of limiting borrowing to 50 percent of paid in and unimpaired capital.

Specific powers are authorized such as the ability to enter into lease agreements; the ability to insure the lives of members under group policies issued in the name of the credit union; the ability to offer members credit life, disability, accident, and health insurance; and the authority to establish and operate electronic facilities. Credit unions are given authority to provide for indemnification of directors and officers in their bylaws or articles of incorporation. Credit unions may limit the personal liability of directors in their articles of incorporation.

A lien for credit unions is created on all shares and deposits of a credit union to the extent of any obligation owed to a credit union by the shareholder or depositor.

Credit unions may make secured and unsecured loans. Credit unions are not permitted to make loans to a single borrower that exceed 25 percent of capital, instead of two and one-half percent of assets.

Credit unions can invest in loans held by other credit unions and loans made to members of the credit union held by other lenders. In addition, credit unions can lend to other credit unions to up to 25 percent of total shares and deposits, instead of 25 percent of paid-in and unimpaired capital.

The director is authorized to examine not only credit unions, but persons primarily in the business of managing one or more credit unions. The director also has the ability to examine a data processor or automated teller machine provider that enters into a contractual arrangement with a credit union, if these service providers fail to perform and could jeopardize the safety and soundness of a credit union.

Credit unions are required to make at least two regular reports each year showing assets and liabilities. Credit unions are required to follow generally accepted accounting principles as specified by rule of the director after January 1, 1999.

The director is given authority to remove officers, employees, directors, and other members of credit union committees for material violations of law or for engaging in unsafe and unsound practices.

Procedures are created for the director to place a credit union under supervisory direction, appoint a conservator, appoint a liquidating agent, or appoint a receiver.

Substitute Bill Compared to Original Bill: The substitute bill makes many technical changes. The substitute bill gives the director broad administrative discretion to administer and interpret the provisions of the credit union code to facilitate the delivery of financial services to Washington citizens. The compliance review privilege is deleted. Among other changes the substitute limits the measure of capital for credit unions, limits organizations who may become members of credit unions, and eliminates specific language that provides credit unions with the right to immediate set-off. The original bill gave credit unions the power to make charitable contributions to not for profit organizations. The substitute bill requires credit unions to work with cities and counties to target these charitable contributions to improve the communities where credit union members reside.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed, except for Section 35, which takes effect one year after the effective date of this act, and Section 50, which takes effect January 1, 1999.

Testimony For: This bill modernizes and clarifies the credit union act, which has not been updated since 1984. The bill is the product of many meetings with credit union constituencies. This legislation makes the law more straightforward so that credit union volunteers can understand their jobs. There are provisions in the bill that provide the regulator with specific authority to step in and assist troubled credit unions. The bill does not expand or increase any credit union powers.

Testimony Against: Credit unions used to be cooperatives that provided financial services to small groups of employees with a common bond. Today credit unions provide the same services as other financial institutions, and still remain tax exempt. The bill is not simply a clarification of the law. In some sections it gives credit unions new powers and in other sections it expands existing powers. Where does the tax exemption end? We need to look at this bill in the context of how many more activities we as a state are going to allow credit unions to engage in without being taxed like other businesses in Washington.

Testified: Stacy Augustine, Washington Credit Union League (pro); Don Larson, Supply Credit Union (pro); Dave Brown, Bruce Koppe, Washington Bankers Association/Puyallup Valley Community Bank; Lyle Jacobsen, Washington Savings League; Ed Wack, Olympia Federal Savings and Loan; Gary Gardner, Boeing Employees Credit Union (pro); Scott D. Nelson, Washington Independent Community Bankers Association (con).