

HOUSE BILL REPORT

HB 1003

As Reported by House Committee On:
Technology, Telecommunications & Energy
Appropriations

Title: An act relating to investing in technology and biotechnical research and technology transfer.

Brief Description: Creating the research and technology transfer commission.

Sponsors: Representatives Morris, Linville, Wood, Anderson, Conway, O'Brien, Kenney and Sullivan.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 1/15/03, 2/21/03 [DPS];
Appropriations: 3/5/03, 3/6/03 [DP2S(w/o sub TTE)].

Brief Summary of Second Substitute Bill

- Creates the Research and Technology Transfer Commission to administer a grant program for research in technology, including biotechnology, telecommunications, and energy.
- Creates the Investing in Innovation Account.
- Requires the Commission to report to the appropriate legislative committees on grant program reviews.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Morris, Chair; Ruderman, Vice Chair; Sullivan, Vice Chair; Crouse, Ranking Minority Member; Anderson, Blake, DeBolt, Hudgins, Kirby, Romero and Wallace.

Minority Report: Do not pass. Signed by 6 members: Representatives Nixon, Assistant Ranking Minority Member; Bush, Delvin, McMahan, Tom and Wood.

Staff: Pam Madson (786-7166).

Background:

Several factors are necessary to produce a desirable environment for a strong biotechnology and technology industry. Washington State and the Seattle area have been in a strong position to attract and retain technology companies. The state's strong technology research capability and an existing technology industry infrastructure are factors that are noted when compared to other areas.

Some states have enhanced their research capability in technology research by establishing research funds using money awarded to that state from the Master Tobacco Settlement Agreement. For example, Ohio created the Biomedical Research and Technology Transfer Trust Fund that receives money from the state's annual allocation of tobacco settlement funds. Money from the Trust Fund supports competitive grants for biomedical research and technology transfer projects that will improve the health of Ohio citizens with an emphasis on tobacco-related illnesses.

Technology research is funded by a variety of sources. Basic biomedical research is funded by the National Institutes of Health. Pharmaceutical companies and their investors fund applied research and commercialization of new medicines and medical technologies. The U.S. Department of Energy provides funds for research in energy technology.

The Washington Technology Center (WTC) facilitates collaboration between the state's research universities and the technology industry. Its mission is to "help Washington companies overcome the technical challenges of product development by linking them with the scientific and engineering resources of the state's universities." The WTC is administered by a board of directors appointed by the Governor that includes 14 industry members, eight university members and four ex officio members. Included in its duties are establishing priorities for the selection and funding of research projects as well as approving and allocating funding for research projects conducted by the WTC.

The Washington State Investment Board invests nearly \$48 billion of assets for 33 separate funds. Fund categories include Retirement (Defined Benefit and Defined Contribution), Industrial Insurance, Deferred Compensation, Permanent Funds, and Other Trust Funds (which include the GET College Tuition Program and the State Emergency Reserve Fund). Investment activities are conducted in accordance with investment policies and procedures designed to maximize return at a prudent level of risk.

In 1998 a national settlement was announced by 46 states against five major tobacco companies. Of that settlement, Washington is to receive approximately \$4 billion over a period of 25 years. Money was received beginning in the 1999-01 biennium and has been used to support tobacco prevention and control programs as well as support for the Basic Health Plan and other health programs. In the 2002 legislative session, 29.2 percent of the revenue stream from the Master Tobacco Settlement Agreement was

securitized which made available to the state \$450 million.

The Antitrust Division of the Attorney General's Office enforces state and federal laws that protect consumers and businesses from anticompetitive practices such as price-fixing, monopolization, and other conduct that interferes with fair competition. The Consumer Protection Division of the Attorney General's Office enforces consumer protection laws that are designed to protect consumers from deceptive and unfair practices. Enforcement of consumer protection and antitrust laws includes investigation and litigation that recovers money on behalf of harmed consumers and businesses, imposes penalties, and recovers enforcement costs and attorneys fees.

Summary of Substitute Bill:

The Research and Technology Transfer Commission (Commission) is created. Its membership includes the board of directors of the Washington Technology Center (WTC) and four members of the Legislature. The Executive Director of the WTC serves as Chair of the Commission and the Commission is staffed by the WTC.

The Commission makes strategic assessments of state investments in biomedical research and biomedical technology, and technology, telecommunications, and energy research. These investments must help create jobs and business opportunities, produce long-term improvements in public health with an emphasis on cancer research, cardiovascular, and smoking-related illnesses, and make telecommunications and energy technology more available and affordable. Biomedical and biotechnology grants may be awarded to qualifying universities, institutions, or individuals. Technology, telecommunications, and energy grants may be awarded to higher education research institutions in Washington State.

The Commission awards contracts or grants using criteria established by the Commission. The Commission must also use the investment assessments as guidance for awards. Priority is given to proposals that leverage additional funding.

Not more than 1 percent of available funds may be used to administer the program.

The funding for the program comes from two new accounts. Both accounts are non-appropriated accounts and the interest earned on the money in the accounts is retained by the account.

The Biomedical Research and Technology Transfer Account is created. The source of money for the account is a portion of the annual receipts for the state under the Master Tobacco Settlement Agreement. Until 2007 the annual contribution to the fund is 10 percent of the annual tobacco settlement receipts. For 2003 the amount equals approximately \$12 million. Beginning in 2008, the annual contribution to the fund is the

portion of the annual tobacco settlement receipts that exceed \$100 million. Additionally, any monies received from new actions taken by the Attorney General against tobacco companies that are not for the benefit of specific parties, court costs and attorneys' fees, or for a statutorily specified account must be deposited into the Biomedical Research and Technology Transfer Account. Up to 10 percent of available funds from this account may be used to support commercialization opportunities in biomedical research in Washington State.

The second, newly created fund is the Investing in Innovation Trust Fund. The source of money for this fund is that portion of court awards or settlements resulting from actions taken by the Attorney General after 1998 in the areas of technology, telecommunications, and energy that are not awarded to identifiable parties, or for court costs and attorneys' fees, or are otherwise directed for deposit by statute. The Trust Fund principal shall consist of the first \$10 million deposited into the Fund. The investment of the money in the Fund is under the State Investment Board. The earnings from investment of the money in the Trust Fund may be used for research grants.

The Commission must establish benchmarks for the program and periodically review the program. The Commission must report findings of program reviews to appropriate standing committees of the Legislature.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) Includes a statement of legislative intent to promote growth in the technology sectors of our state's economy; (2) includes, for deposit into the Biomedical Research and Technology Transfer Account, monies in excess of \$100 million from the tobacco settlement account beginning in 2008, and any monies from new actions taken by the Attorney General against tobacco companies that are not for the benefit of specific parties, for court costs and attorneys' fees, or for a statutorily specified account; (3) includes, for deposit into the Investing in Innovation Trust Fund, monies from court awards, or court-approved or out-of-court settlements from actions taken by the Attorney General beginning in 1998; (4) clarifies that the Investing in Innovation Trust Fund may receive gifts, grants, and awards from federal court actions; (5) changes the membership of the Research and Technology Transfer Commission (Commission) to the members of the board of directors for the Washington Technology Center (WTC) and four legislators, and designates the Executive Director of the WTC as the Chair of the Commission; (6) directs the Commission to report its periodic reviews of the grants program to certain standing committees of the Legislature; and (7) clarifies that areas of focus for biomedical and biotechnical research proposals include proposals that address cardiovascular and smoking-related illnesses.

Appropriation: None.

Fiscal Note: Requested on January 14, 2003.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: We are lagging behind many states in focusing our resources on research and development in technology and biotechnology. We need to make investments now in research and development to ensure the future of the state. Support for growth of Washington companies through research and technology development is critical. There are some issues to deal with including access to technology and capital, both addressed in this bill. Every state in the country is looking to develop a public policy environment that encourages companies to locate there. Diverting existing revenue sources needs to be done very carefully and with great deliberation. The strategy should be to look only at new money. There is concern that the regulatory penalty portion of this bill not become an incentive for additional litigation by the state. Maintaining a broad definition is important to effect the whole of the state's economy, not just one sector. It is important to use existing boards for guidance. The Washington Technology Center (WTC) should be used as the commission. It's a natural extension of the current research and technology development program that the WTC administers for the state. On the other hand, a new commission is important because the WTC and the Spokane Intercollegiate Research and Technology Institute have different missions. Part of this money should also be used for technology commercialization, creating infrastructure, and to create companies out of the technologies being developed. We would like to see the bill expanded to include other technologies, not just the biosciences, but this is a good first step. States who have used tobacco settlement money haven't taken the link between tobacco related illnesses and cancers to provide a policy justification to use the tobacco settlement money to fund research to cure those illnesses.

(With concerns): Unintended consequences of this bill will take away significant funds from existing state programs. There is an existing, very orderly, open process, called Power Washington, that handles funds from the court actions taken by the Attorney General's Office. There are very diverse parties involved in this and a lot of different people that have a restitutionary stake. An account already exists, the Energy Account. We need to see what is already in place. A full range of programs, not just a subset, that could be done in the energy field, particularly natural gas should be considered.

Testimony Against: This tobacco settlement money was given to Washington to address the drain on the system from people who smoked. The funding source in this bill is a concern. When the tobacco settlement was reached, the Attorney's General felt that money should be given to public health and tobacco prevention and control, but it was ultimately each state's decision. In Washington, legislation passed a couple years ago to put settlement money into public health and tobacco prevention and control. Recovery from lawsuits brought in the public's interest should go to the people harmed or, if you cannot give it to the people individually harmed, keep it within realm of reasons the

lawsuit was brought. The doctrine of Cy-pres, a judicially created concept, states that where the victims of a wrong cannot be identified the money should go back toward the area from which the people who brought lawsuit were harmed. When a court sanctions a settlement based on Cy-pres the money under that settlement is directed to the purposes of the settlement. The Legislature put the tobacco money into the Health Services Account, which funds the Basic Health Plan, tobacco prevention programs, and medicaid coverage for kids. We should not pull out some of this money now, at a time when there is a budget crisis and further cuts to public health, including the Basic Health Plan, are expected. There is a compelling need and funding is still critical. There should be more specificity and clarification as to where the money in this bill will go. Also, it should include all smoking related illnesses and not be limited to cancer.

Testified: (In support) Representative Morris, prime sponsor; Dr. Lee Cheatham, Washington Technology Center; Terry Byington, AeA; Linda Hull, Washington Biotechnology and Biomedical Association; and Patrick Tam, Spokane Intercollegiate Research and Technology Institute.

(With concerns) David Sjoding, Washington State University; Jane Yung Dennie, Washington State University; Tim Boyd, Industrial Customers for Northwest Utilities; Lonnie Johns-Brown, The Arc of Washington State and The Washington Coalition of Sexual Assault Programs; and Nick Federici, American Lung Association of Washington.

(Opposed) Elaine Rose, Attorney General's Office; and Michael Shaw, American Heart Association.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Telecommunications & Energy. Signed by 17 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Cody, Conway, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McIntire, Miloscia, Pflug, Ruderman, Schual-Berke and Talcott.

Minority Report: Do not pass. Signed by 8 members: Representatives Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Buck, Clements, Cox, McDonald and Sump.

Staff: Amy Skei (786-7140).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Technology, Telecommunications & Energy:

The second substitute bill removes the funding mechanisms from the bill. It also removes the Investing in Innovation Trust Fund and renames the Biomedical Research and

Technology Transfer Account as the Investing in Innovation Account.

Appropriation: None.

Fiscal Note: Requested on February 24, 2003.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The funding mechanisms may be the most controversial part of this bill. We tried to be creative and use a strategy similar to what some other states have done with tobacco settlement money in this area. We should establish the technology transfer funds even if we need to strip out the funding mechanism. Other states are doing a lot with technology transfer in the high tech sector. These types of funds seem to be working successfully in other states and are constitutional in this state. Future growth will be in the technology sector, whether it be telecommunications, energy, or biotechnology. This plan would focus on leveraging dollars and comparing the viability of projects and their likelihood of creating jobs. We need to focus on what new technologies will be the best for Washington. This bill is an important tool for economic development and future growth. The important part is establishing the fund. It is a mechanism for improving the state's economy and for research and development in these various areas. This bill is fine as long as the funding mechanism is removed.

Testimony Against: None.

Testified: Representative Jeff Morris, prime sponsor; Scott Hazlegrove, Washington Technology Center; and Jacob C. Fey, Washington State University Energy Program.