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ENGROSSED SUBSTITUTE SENATE BILL 5192

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State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Financial Services, Insurance & Housing  
(originally sponsored by Senators Zarelli and Oke)

READ FIRST TIME 02/24/03.

1 AN ACT Relating to Washington investments; amending RCW 43.33A.020  
2 and 43.33A.040; adding new sections to chapter 43.33A RCW; creating a  
3 new section; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The outlook for the state's pension system  
6 is dramatically affected by the performance of the state investment  
7 board. The recent performance of all pension funds throughout the  
8 country has resulted in a greater emphasis on investment expertise and  
9 accountability for investment decisions.

10 The legislature has determined that particular roles and  
11 responsibilities are appropriate for various members of the investment  
12 board. In delineating these roles and responsibilities, a system of  
13 accountability for performance is an essential element.

14 The legislature also finds that an examination of Washington  
15 investment opportunities within the context of Washington's overall  
16 investment strategy for diversification and maximizing returns is an

1 appropriate role of the state investment board and that additional  
2 resources may be necessary to fully consider those investments.

3 NEW SECTION. **Sec. 2.** (1) The state investment board shall  
4 maintain a portion of the board's investment portfolio in the  
5 technology investment account, an account that shall be accounted for  
6 separately and apart from other moneys invested by the board.  
7 Investments from the account may be made in technology businesses.  
8 These investments may be made directly by the board or through the  
9 board's investment advisors, including venture capital firms. The  
10 earnings on the technology investment account must be accounted for  
11 separately from other investments made by the board.

12 (2) Investments under this section must be made in a manner  
13 consistent with investment or management criteria established by the  
14 board. In making investments of moneys in the technology investment  
15 account, the primary investment objectives are to maximize return at a  
16 prudent level of risk, as required by RCW 43.33A.110, and to maintain  
17 a diversity of investment as required by RCW 43.33A.140. In choosing  
18 among equal investment opportunities that satisfy these investment  
19 objectives, the board shall give priority to those investments from the  
20 account that help attract or assist technology businesses in the state,  
21 including investments in technology businesses seeking to locate or  
22 expand in this state.

23 (3) The state investment board shall hire or designate from its  
24 current staff, at least one experienced full-time staff person to  
25 research, investigate, and recommend to the state investment board, if  
26 appropriate, and subject to the standards of investment and management  
27 under RCW 43.33A.110 and this section, investment opportunities in  
28 technology businesses that are located in, have a substantial  
29 employment base in, make a significant economic contribution to, or are  
30 seeking to locate or expand in, Washington state. The department of  
31 community, trade, and economic development is responsible for actively  
32 marketing the technology investment account to businesses seeking to  
33 locate or expand in Washington and shall work in conjunction with  
34 appropriate staff of the state investment board to coordinate  
35 information on technology businesses interested in locating or  
36 expanding in Washington.

1 (4) As used in this section "technology business" means a company  
2 that has as its principal function the providing of services including  
3 computer, information transfer, communication, distribution,  
4 processing, administrative, laboratory, experimental, developmental,  
5 technical, testing services, manufacture of goods or materials, the  
6 processing of goods or materials by physical or chemical change,  
7 computer-related activities, robotics, energy, biological or  
8 pharmaceutical industrial activity, or technology-oriented or emerging  
9 industrial activity.

10 **Sec. 3.** RCW 43.33A.020 and 2002 c 303 s 1 are each amended to read  
11 as follows:

12 There is hereby created the state investment board to consist of  
13 ~~((fifteen))~~ members to be appointed as provided in this ~~((section))~~  
14 chapter.

15 ~~((1) One member who is an active member of the public employees'~~  
16 ~~retirement system and has been an active member for at least five~~  
17 ~~years. This member shall be appointed by the governor, subject to~~  
18 ~~confirmation by the senate, from a list of nominations submitted by~~  
19 ~~organizations representing active members of the system. The initial~~  
20 ~~term of appointment shall be one year.~~

21 ~~(2) One member who is an active member of the law enforcement~~  
22 ~~officers' and fire fighters' retirement system and has been an active~~  
23 ~~member for at least five years. This member shall be appointed by the~~  
24 ~~governor, subject to confirmation by the senate, from a list of~~  
25 ~~nominations submitted by organizations representing active members of~~  
26 ~~the system. The initial term of appointment shall be two years.~~

27 ~~(3) One member who is an active member of the teachers' retirement~~  
28 ~~system and has been an active member for at least five years. This~~  
29 ~~member shall be appointed by the superintendent of public instruction~~  
30 ~~subject to confirmation by the senate. The initial term of appointment~~  
31 ~~shall be three years.~~

32 ~~(4) The state treasurer or the assistant state treasurer if~~  
33 ~~designated by the state treasurer.~~

34 ~~(5) A member of the state house of representatives. This member~~  
35 ~~shall be appointed by the speaker of the house of representatives.~~

36 ~~(6) A member of the state senate. This member shall be appointed~~  
37 ~~by the president of the senate.~~

1 ~~(7) One member who is a retired member of a state retirement system~~  
2 ~~shall be appointed by the governor, subject to confirmation by the~~  
3 ~~senate. The initial term of appointment shall be three years.~~

4 ~~(8) The director of the department of labor and industries.~~

5 ~~(9) The director of the department of retirement systems.~~

6 ~~(10) One member who is an active member of the school employees'~~  
7 ~~retirement system and has at least five years of service credit. This~~  
8 ~~member shall be appointed by the superintendent of public instruction~~  
9 ~~subject to confirmation by the senate. The initial term of appointment~~  
10 ~~shall be three years.~~

11 ~~(11) Five nonvoting members appointed by the state investment board~~  
12 ~~who are considered experienced and qualified in the field of~~  
13 ~~investments.~~

14 ~~The legislative members shall serve terms of two years. The~~  
15 ~~initial legislative members appointed to the board shall be appointed~~  
16 ~~no sooner than January 10, 1983. The position of a legislative member~~  
17 ~~on the board shall become vacant at the end of that member's term on~~  
18 ~~the board or whenever the member ceases to be a member of the senate or~~  
19 ~~house of representatives from which the member was appointed.~~

20 ~~After the initial term of appointment, all other members of the~~  
21 ~~state investment board, except ex officio members, shall serve terms of~~  
22 ~~three years and shall hold office until successors are appointed.~~  
23 ~~Members' terms, except for ex officio members, shall commence on~~  
24 ~~January 1 of the year in which the appointments are made.~~

25 ~~Members may be reappointed for additional terms. Appointments for~~  
26 ~~vacancies shall be made for the unexpired terms in the same manner as~~  
27 ~~the original appointments. Any member may be removed from the board~~  
28 ~~for cause by the member's respective appointing authority.))~~

29 NEW SECTION. **Sec. 4.** There is hereby created an audit and  
30 accountability committee of the state investment board consisting of  
31 not more than five voting members of the investment board. The audit  
32 and accountability committee members are appointed by the state  
33 investment board chairperson.

34 At least one member of the audit and accountability committee must  
35 be a representative of one of the retirement system beneficiaries.

1        NEW SECTION.    **Sec. 5.** The state treasurer or a designee is a  
2 member of the state investment board. In addition to serving as a  
3 fiduciary trustee, the state treasurer serves as a member of the audit  
4 and accountability committee. The state treasurer will use his or her  
5 expertise in financial markets to assist the accountability review  
6 process for the state investment board. The state treasurer will also  
7 assist in identifying in-state investment opportunities that meet or  
8 exceed out-of-state investment returns. The state treasurer will work  
9 with the chair of the state investment board and investment board staff  
10 to develop and implement an outreach program to Washington citizens.  
11 The purpose of the outreach program is to increase awareness of the  
12 performance of the pension fund and to encourage public review of the  
13 investment portfolio performance in aggregate. The state treasurer  
14 will report to the investment board at least twice a year the extent of  
15 those outreach efforts and any significant concerns or issues raised by  
16 the public regarding the state investment board.

17        NEW SECTION.    **Sec. 6.** One member of the state investment board is  
18 an active member of the public employees' retirement system and has  
19 been an active member for at least five years. This member is  
20 appointed by the governor, subject to confirmation by the senate, from  
21 a list of nominations submitted by organizations representing active  
22 members of the system. In addition to serving as a fiduciary trustee,  
23 this member will use his or her position as a representative of pension  
24 fund beneficiaries to work with state investment board staff to  
25 participate in an outreach program specific to the public employees'  
26 retirement system beneficiaries. At a minimum, the outreach program  
27 will include making available a written annual report to public  
28 employees and an annual meeting for public employees detailing board  
29 performance and investment objectives. The public employees' board  
30 member will also assist in identifying issues relevant to public  
31 employees' for which the state investment board is held accountable,  
32 and will provide a quarterly report to the board on those issues.

33        NEW SECTION.    **Sec. 7.** One member of the state investment board is  
34 an active member of the law enforcement officers' and fire fighters'  
35 retirement system and has been an active member for at least five  
36 years. This member is appointed by the governor, subject to

1 confirmation by the senate, from a list of nominations submitted by  
2 organizations representing active members of the system. In addition  
3 to serving as a fiduciary trustee, this member will use his or her  
4 position as a representative of pension fund beneficiaries to work with  
5 state investment board staff to participate in an outreach program  
6 specific to the law enforcement officers' and fire fighters' retirement  
7 system beneficiaries. At a minimum, the outreach program will include  
8 making available a written annual report to law enforcement officers'  
9 and fire fighters' employees and an annual meeting for law enforcement  
10 officers' and fire fighters' employees detailing board performance and  
11 investment objectives. The law enforcement officers' and fire  
12 fighters' board member will also assist in identifying issues relevant  
13 to law enforcement officers' and fire fighters' for which the state  
14 investment board is held accountable, and will provide a quarterly  
15 report to the board on those issues.

16 NEW SECTION. **Sec. 8.** One member of the state investment board is  
17 an active member of the teachers' retirement system and has been an  
18 active member for at least five years. This member is appointed by the  
19 superintendent of public instruction subject to confirmation by the  
20 senate. In addition to serving as a fiduciary trustee, this member  
21 will use his or her position as a representative of pension fund  
22 beneficiaries to work with state investment board staff to participate  
23 in an outreach program specific to the teachers' retirement system  
24 beneficiaries. At a minimum, the outreach program will include making  
25 available a written annual report to teachers' retirement system  
26 employees and an annual meeting for teachers' retirement system  
27 employees detailing board performance and investment objectives. The  
28 teachers' board member will also assist in identifying issues relevant  
29 to teachers for which the state investment board is held accountable,  
30 and will provide a quarterly report to the board on those issues.

31 NEW SECTION. **Sec. 9.** One member of the state investment board is  
32 an active member of the school employees' retirement system and has at  
33 least five years of service credit. This member is appointed by the  
34 superintendent of public instruction subject to confirmation by the  
35 senate. In addition to serving as a fiduciary trustee, this member  
36 will use his or her position as a representative of pension fund

1 beneficiaries to work with state investment board staff to participate  
2 in an outreach program specific to the school employees' retirement  
3 system beneficiaries. At a minimum, the outreach program will include  
4 making available a written annual report to school employees and an  
5 annual meeting for school employees detailing board performance and  
6 investment objectives. The school employees' board member will also  
7 assist in identifying issues relevant to school employees for which the  
8 state investment board is held accountable, and will provide a  
9 quarterly report to the board on those issues.

10 NEW SECTION. **Sec. 10.** One member of the state investment board is  
11 a retired member of a state retirement system and is appointed by the  
12 governor subject to confirmation by the senate. In addition to serving  
13 as a fiduciary trustee, this member will use his or her position as a  
14 representative of pension fund beneficiaries to work with state  
15 investment board staff to participate in an outreach program specific  
16 to retired beneficiaries. At a minimum, the outreach program will  
17 include making available a written annual report to retirees and an  
18 annual meeting for retirees detailing board performance and investment  
19 objectives. The retirees' board member will also assist in identifying  
20 issues relevant to retirees for which the state investment board is  
21 held accountable, and will provide a quarterly report to the board on  
22 those issues.

23 NEW SECTION. **Sec. 11.** The director of labor and industries is a  
24 member of the state investment board, representing an agency that is  
25 responsible for administering programs supported by state investment  
26 board earnings. In addition to serving as a fiduciary trustee, the  
27 director of labor and industries will work with state investment board  
28 staff to implement a process for reporting state investment board  
29 earnings and investment objectives to those businesses in Washington  
30 state that provide the funding for the programs administered by the  
31 department of labor and industries that are supported by state  
32 investment board earnings.

33 NEW SECTION. **Sec. 12.** The director of retirement systems is a  
34 member of the state investment board, representing an agency that is  
35 responsible for administering programs supported by state investment

1 board earnings. In addition to serving as a fiduciary trustee, the  
2 director of retirement systems will implement a process of reporting  
3 state investment board earnings to the constituents of retirement  
4 systems.

5 NEW SECTION. **Sec. 13.** The performance of the state investment  
6 board has a profound effect on the state budget and the interests of  
7 the people of the state. Accordingly, the governor or the governor's  
8 designee is a member of the state investment board. In addition to  
9 serving as a fiduciary trustee, the governor will work with the state  
10 investment board staff to develop and implement an outreach program to  
11 Washington citizens. The intent of the outreach program is to increase  
12 awareness of the performance of the pension fund and to encourage  
13 public review of the investment board's performance.

14 NEW SECTION. **Sec. 14.** The performance of the state investment  
15 board has a profound effect on the state budget and the interests of  
16 the people of the state. Accordingly, one member of the state  
17 investment board is a member of the state house of representatives.  
18 This member is appointed by the speaker of the house of  
19 representatives. In addition to serving as a fiduciary trustee, this  
20 member is responsible for reporting to the relevant committees in the  
21 house of representatives on the status of the funds for which the state  
22 investment board is responsible and accountable.

23 NEW SECTION. **Sec. 15.** The performance of the state investment  
24 board has a profound effect on the state budget and the interests of  
25 the people of the state. Accordingly, one member of the state  
26 investment board is a member of the state senate. This member is  
27 appointed by the president of the senate. In addition to serving as a  
28 fiduciary trustee, this member is responsible for reporting to the  
29 relevant committees in the senate on the status of the funds for which  
30 the state investment board is responsible and accountable.

31 NEW SECTION. **Sec. 16.** The performance of the state investment  
32 board has a profound effect on local government fiscal systems and the  
33 interests of people in our communities. Accordingly, one member is  
34 appointed by the governor, subject to confirmation by the senate, from



1 a list of nominations submitted by cities and counties participating in  
2 pension systems supported by the state investment board. In addition  
3 to serving as a fiduciary trustee, this member is responsible for  
4 reporting to the appropriate local government entities on the status of  
5 the funds for which the state investment board is responsible and  
6 accountable. The local government designee will work with the state  
7 investment board staff to develop and implement an outreach program to  
8 Washington citizens. The intent of the outreach program is to increase  
9 awareness of the performance of the pension fund and to encourage  
10 public review of the investment board's performance.

11 NEW SECTION. **Sec. 17.** Expertise in investment decisions is sought  
12 by the inclusion of five nonvoting members appointed by the state  
13 investment board after nomination by the audit and accountability  
14 committee, who are considered experienced and qualified in the field of  
15 investments. At least one of the nonvoting members must have  
16 experience in investing in companies, funds, or other investments that  
17 are located in, have a substantial employment base in, or make a  
18 significant economic contribution to, Washington state.

19 NEW SECTION. **Sec. 18.** (1) All members of the state investment  
20 board, except nonvoting members, legislative members, and ex officio  
21 members, serve terms of three years and hold office until successors  
22 are appointed. Members' terms, except for nonvoting members, commence  
23 on January 1st of the year in which the appointments are made.

24 (2) Members may be reappointed for additional terms. Appointments  
25 for vacancies are made for the unexpired terms in the same manner as  
26 the original appointments. Any voting member may be removed from the  
27 state investment board for cause by the member's respective appointing  
28 authority. The five nonvoting members serve for a term determined by  
29 the audit and accountability committee, which may not exceed two years.  
30 Nonvoting members may be removed from the board by the audit and  
31 accountability committee at any time with or without cause.

32 (3) The legislative members serve terms of two years. The position  
33 of a legislative member on the state investment board becomes vacant at  
34 the end of that member's term on the state investment board or whenever  
35 the member ceases to be a member of the senate or house of  
36 representatives from which the member was appointed.

1       **Sec. 19.** RCW 43.33A.040 and 2002 c 303 s 2 are each amended to  
2 read as follows:

3       (1) A quorum to conduct the business of the state investment board  
4 consists of (~~at least six~~) a majority of the voting members serving  
5 on the board. No action may be taken by the board without the  
6 affirmative vote of (~~six members~~) a majority of the voting members  
7 serving on the board.

8       (2) The state investment board shall meet at least quarterly at  
9 such times as it may fix. The board shall elect a chairperson and vice  
10 chairperson annually: PROVIDED, That the legislative members are not  
11 eligible to serve as chairperson.

12       NEW SECTION. **Sec. 20.** Sections 2 and 4 through 18 of this act are  
13 each added to chapter 43.33A RCW.

14       NEW SECTION. **Sec. 21.** This act is necessary for the immediate  
15 preservation of the public peace, health, or safety, or support of the  
16 state government and its existing public institutions, and takes effect  
17 immediately.

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