

HOUSE BILL REPORT

SHB 1806

As Passed House:

March 14, 2005

Title: An act relating to encouraging the ethical transfer of technology for the economic benefit of the state.

Brief Description: Encouraging the ethical transfer of technology for the economic benefit of the state.

Sponsors: By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Kenney, Haigh, Kessler, Morrell, Dickerson, Williams, P. Sullivan, Ericks, Anderson, McDermott, Wood, Linville, Moeller and Hudgins; by request of Governor Gregoire).

Brief History:

Committee Activity:

State Government Operations & Accountability: 2/15/05, 2/23/05 [DPS].

Floor Activity:

Passed House: 3/14/05, 97-0.

Brief Summary of Substitute Bill

- Allows state universities, regional universities, Spokane Intercollegiate Research and Technology Institute, Washington Technology Center and any other affiliated research or technology institute to develop, adopt, and implement administrative processes that apply to the universities and their research employees in place of certain ethics laws for the purpose of technology transfer.

HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Haigh, Chair; Green, Vice Chair; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt, McDermott, Miloscia, Schindler and Sump.

Staff: Marsha Reilly (786-7135).

Background:

The Ethics in Public Service Law prescribes ethical standards for state officers and state employees that might result in financial gain or conflict of interest. Prohibited activities include:

- having any interest or business which is in conflict with state duties;
- having an interest, either direct or indirect, in a contract, sale, lease, purchase, or grant that is under the officer's or employee's supervision;
- participating in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest;
- accepting employment which might reasonably require the disclosure of confidential information obtained through state employment;
- accepting any compensation or benefit from sources other than the state for the performance of state duties;
- accepting anything of economic value given to influence the performance of state duties; and
- using state resources for personal benefit.

Technology transfer is the process that turns university discoveries and inventions into products that benefit the public and strengthen the state's economy. As an idea moves from a university laboratory to a licensing arrangement with a private company and to commercial development and production, success often depends on the continued involvement of the original faculty inventor.

In 1996, state ethics laws were amended to allow officers and employees of higher education institutions and the Spokane Intercollegiate Research and Technology Institute (SIRTI) to receive economic benefit from a contract or grant. Institutions of higher education and SIRTI must have a written administrative process, in compliance with federal law, to identify and manage, reduce, or eliminate conflicting interest in the transaction, and the state officer or employee must comply with the policy. The 1996 changes also allowed officers and employees of higher education institutions and SIRTI to serve as (1) an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel of any nonprofit institute, foundation, or fundraising entity; and (2) a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

Summary of Substitute Bill:

The state ethics law is amended, consistent with state policy, to encourage basic and applied scientific research. The universities may develop, adopt, and implement one or more written administrative processes that shall apply in place of the obligations imposed on the universities and university research employees under the following state ethics laws:

- financial interests in transactions;
- assisting in transactions;
- employment after public service;

- compensation for official duties or nonperformance;
- compensation for outside activities;
- honoraria;
- gifts;
- limitations on gifts; and
- use of persons, money, or property for private gain.

The universities must coordinate in the development of administrative processes to ensure the processes are comparable. University research employees who are in compliance with the administrative procedures are considered to be in compliance with the applicable ethics laws. The state executive ethics board's authority is extended to enforce these policies.

The administrative processes developed relative to (1) financial interests in transactions, (2) compensation for official duties or nonperformance, (3) honoraria, (4) gifts, and (5) limitations on gifts must be consistent with and adhere to the current federal standards relating to promotion of objectivity in research.

The administrative processes developed pertaining to (1) assisting in transactions, (2) employment after public service, and (3) compensation for outside activities must include a comprehensive system for the disclosure, review, and approval of outside work activities by state university research employees while assuring that such employees are fulfilling their employment obligations to the state university.

The administrative processes developed with respect to use of persons, money, or property for private gain must include a reasonable determination of acceptable private uses having *de minimus* costs to the university and a method for establishing fair and reasonable reimbursement charges for private uses in excess of *de minimus*.

University is defined as the state universities and the regional universities pursuant to RCW 28B.10.016, and also includes SIRTI, the Washington Technology Center (WTC) and any other research or technology institute affiliated with a university. University research employee is defined as a state officer or state employee employed by a university to the extent that officer or employee is engaged in research, technology transfer, approved consulting activities related to research and technology transfer, or other incidental activities.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The primary purpose of the bill is to give researchers more flexibility in order to bring new technology to the public. University employees are subject to the state ethics laws and these laws fail to recognize research functions and are a barrier to encouraging technology. The bill allows universities to manage conflicts of interest and allows for

accountability. The University of Washington strongly endorses the bill. It is consistent with the legislatively mandated mission of research. Ethics laws have a chilling effect on research, and it is not clear whether financial interests are in compliance with ethics law. There is a need to more coherently manage research interests. The University of Washington is compensated for use and information is made public through licensing opportunities. It creates partnerships for the creation of new business ventures which is an outreach mission of the university. State ethics laws are an impediment to conducting research at a university.

Testimony Against: None.

Persons Testifying: Representative Kenney, prime sponsor; Malcolm Parks and James Severson, University of Washington; Jack Faris, Washington Biotechnology and Biomedical Association; and Scott Merriman, Office of Financial Management.

Persons Signed In To Testify But Not Testifying: None.