
Business & Financial Services Committee

HB 2434

Brief Description: Creating the Washington investment trust.

Sponsors: Representatives Hasegawa, Hudgins, Kenney, Goodman, Appleton, Santos, Ryu, Ladenburg, Dickerson, Sullivan, Green, Pollet, Haigh, Springer, Pettigrew, Cody, Orwall, Fitzgibbon, Roberts, Seaquist, Tharinger, Darneille, Moeller, Jinkins, Miloscia, Eddy, Van De Wege, Stanford, Reykdal, Takko, Ormsby, Maxwell, Kagi, Kirby, Sells, McCoy, Clibborn, Moscoso, Wylie, Lytton, Hunt, Liias, Upthegrove and Blake.

Brief Summary of Bill

- Creates the Washington Investment Trust to: serve as a depository for state moneys, invest state moneys, facilitate investment in infrastructure, administer student loans, and provide banking services.

Hearing Date: 1/26/12

Staff: Alexa Silver (786-7190).

Background:

State Treasurer.

The State Treasurer (Treasurer) manages the cash flow needs of the state, invests the state's operating funds, and issues and manages state debt. The Treasurer invests the state's operating cash in short-term, interest-bearing accounts with the stated purpose of generating returns while preserving the state's ability to access the funds. The Treasurer is authorized to combine all state funds that it manages for investment purposes. For purposes of investing the treasury pool, the Treasurer maintains two investment portfolios.

Department of Financial Institutions.

The Department of Financial Institutions (Department) regulates state-chartered banks. This includes overseeing solvency issues. The Department examination reports containing information obtained from financial institutions and regulated persons are confidential and

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

privileged information. Financial and commercial information and records supplied by businesses or individuals during application for loans or program services by financial institutions and local agencies are not subject to public disclosure.

Bank of North Dakota.

The Bank of North Dakota is the only state-owned bank in the U.S. It acts as a funding resource and has four established business areas: student loans, lending services, treasury services, and banking services. North Dakota law requires that all state funds be deposited in the Bank of North Dakota. Deposits are guaranteed by the full faith and credit of the state. The Bank of North Dakota is overseen by an Industrial Commission, comprised of the Governor, Attorney General, and Commissioner of Agriculture. A seven-member Advisory Board, the members of which are knowledgeable in banking and finance, make recommendations regarding management, services, policies, and procedures.

Public Works Board and Community Economic Revitalization Board.

The Public Works Trust Fund Program assists local governments and special purpose districts to finance public works projects. The Public Works Board is authorized to make low-interest or interest-free loans to finance the acquisition, construction, repair, replacement, or improvement of: bridges, streets, and roads; water, storm, and sanitary sewage systems; and solid waste facilities. All local governments except port and school districts are eligible to apply.

The Community Economic Revitalization Board (CERB) provides loans and grants to finance infrastructure, facilities, and sites that foster economic vitality and diversification for the purpose of job creation, retention, or expansion. The CERB supports planning, pre-development, and construction of public facilities including: bridges and roads, domestic and industrial water, earth stabilization, sanitary and storm sewers, railroad, electricity, telecommunications, transportation, natural gas, general purpose industrial buildings, and port facilities. Local governments, special purpose districts, and federally-recognized Indian tribes are eligible to apply.

Washington Higher Education Facilities Authority.

The Washington Higher Education Facilities Authority (WHEFA) is a self-supporting state agency that provides low-cost capital to non-profit, independent colleges and universities. The WHEFA accomplishes this by the issuance of tax-exempt, nonrecourse revenue bonds for the independent qualified institutions of higher education in Washington. Without incurring any expense or liability that is an obligation of the state, the WHEFA is authorized to originate and purchase educational loans and to issue student loan revenue bonds.

Lending of Credit.

Article VIII, section 5 of the state Constitution prohibits giving or loaning the state's credit to an individual, association, company, or corporation. Similarly, Article VIII, section 7 prohibits municipalities from giving or loaning their money, property, or credit to any individual, association, company, or corporation, except for the necessary support of the poor and infirm. The Supreme Court interprets these provisions to create the same restriction. Expenditures to entities that are wholly public and expenditures that serve a fundamental purpose of government do not violate these provisions.

Summary of Bill:

1. Findings & Intent.

The Legislature finds that there are unmet public infrastructure and higher education needs in the state. The Legislature intends for the Washington Investment Trust (Trust) to facilitate investment in public infrastructure systems, assist students in need of low-cost student loans, and leverage the state's capital and resources.

2. Governance.

Investment Trust Commission: The primary governing authority of the Trust is the Investment Trust Commission (Commission), which is comprised of the Governor, the Lieutenant Governor, and the State Treasurer. The Commission must begin Trust operations by July 1, 2013.

The Commission has authority to adopt rules regarding:

- safety and soundness standards of the Trust;
- criteria for evaluating, approving, and monitoring loans;
- eligibility requirements and limits for borrowing;
- transparency requirements for Trust operations;
- ethics and conflict of interest requirements for the Commission, the board, and officers and employees of the Trust; and
- other topics as needed for efficient administration of the Trust.

The Commission may delegate to the Trust President duties and powers necessary to carry on the Trust's business and enforce the chapter efficiently and effectively, but it may not delegate rule-making or policy-making authority. It may establish technical advisory committees or consult with public or private sector experts.

The Commission must make recommendations to the Legislature on options for capitalization.

Trust Transition Board: The Trust Transition Board includes the following members: two senators, one from each caucus; two representatives, one from each caucus; and seven citizen members with a background in banking or finance.

The President of the Senate and the Speaker of the House jointly select the Chair of the Transition Board from among the citizen membership. The Chair must convene the first meeting within 45 days of the effective date of the bill. The Transition Board may appoint an interim president and other staff and may contract with people who have technical expertise. The Department must provide technical assistance.

The Transition Board must make recommendations to the Commission regarding:

- a start-up business plan for the Trust that includes plans and timelines for functions that are new, as well as functions transitioning to the Trust that were previously performed by another entity;
- initial capital requirements of the Trust and capitalization options; and
- other items requested by the Commission.

Advisory Board & Management: The Investment Trust Advisory Board reviews the Trust's operations and makes recommendations relating to the Trust's management, services, policies,

and procedures. The Advisory Board consists of 11 members appointed by the Governor and confirmed by the Senate. The members must be knowledgeable in banking and finance and must represent a diversity of experience relevant to the Trust's activities. Requirements related to the Advisory Board go into effect July 1, 2013.

The Commission appoints a President with experience in banking. The President may hire employees and contract with people who have technical expertise. Members of the Advisory Board, the president, and employees are subject to the state Ethics Act and may not receive a loan from the Trust.

3. Deposit and Investment of Public Funds.

The Trust must serve as the depository for state moneys once it has built sufficient capacity to accept and manage state moneys, as determined by the Commission. The Commission must establish a process and timeframe for the deposit of state moneys, taking into consideration the Federal Deposit Insurance Corporation rules regarding minimum leverage capital requirements. The Treasurer must deposit state moneys into the Trust in accordance with the timeframe and guidelines determined by the Commission.

The Commission must also review state accounts that are not part of the Treasury and make recommendations to the Legislature as to which accounts should be deposited in the Trust.

Deposits in the Trust are guaranteed by the State.

Income that the Trust earns on state moneys must be credited to and become a part of the revenues of the Trust, except that the Trust must return earnings beyond those necessary for the sound operation of the Trust to the State General Fund. The Trust may accept deposit of public funds, but is exempt from the requirements of the Public Deposit Protection Commission.

The Trust may invest state moneys deposited in the Trust that are not reasonably expected to be necessary to meet the short- and intermediate-term liquidity needs of the state. The Treasurer retains authority to manage and invest the amount of funds necessary to meet the operational needs of state government. Subject to the limitations in the bill, the Treasurer may invest funds when there are cash balances that are more than sufficient to meet the current expenditures.

4. Lending Programs.

Infrastructure Loans: The Trust is authorized to facilitate investment in and financing of construction, rehabilitation, replacement, and improvement of new and existing public infrastructure systems. However, before initiating operations, the Commission must present an implementation plan and any necessary legislation to the Governor and legislative committees that:

- identifies the public infrastructure systems that the Trust plans to target initially;
- identifies any existing state programs that the Trust recommends be transferred under its umbrella and the steps and timelines for the transitions;
- describes additional financing products and services the Trust plans to offer, the target markets, anticipated rates, terms and conditions;

- demonstrates how Trust products and services will increase access to capital for public infrastructure systems and complement those of existing public and private sources; and
- demonstrates how the Trust plans to maximize revenues and public benefit.

A public infrastructure system is a system of a local government, a special purpose district, a public school district, an institution of higher education, an Indian tribe, or the state, including but not limited to a system involving: wastewater treatment; storm water management; solid waste disposal; drinking water treatment; flood control levees; energy efficiency enhancements; roads, streets, and bridges; transportation infrastructure; broadband and telecommunications infrastructure; outdoor recreation and habitat protection facilities; community, social service, or public safety facilities; schools and educational facilities; and affordable housing.

Student Loans: The Trust is authorized to administer a state guarantee loan program to assist students in need of low-cost student loans and related loan benefits to address educational needs as necessary to support student success. However, before initiating operations, the Commission must present an implementation plan and any necessary legislation to the Governor and legislative committees that:

- identifies the needs and benefits to selected students that the program will target initially;
- demonstrates how the Trust plans to maximize revenues and public benefit while minimizing public risk;
- demonstrates how the Trust will coordinate with the Office of Student Financial Assistance; and
- identifies the ways that the program will address the following issues related to loans: qualification criteria; obligations and options for loan repayment; requirements for loan guarantees and reserves; fee and interest rate structure; maximum loan amounts; and ensuring student awareness of grants, federal loans, and other financial aid programs.

5. Treasury and Banking Services.

For financial institutions that make the Trust a reserve depository, the Trust may serve as a clearinghouse, including all facilities for providing domestic and foreign exchange, and may rediscount paper, on terms the Commission provides. The Trust may provide corporate trust services for the state and its political subdivisions. The Trust may: buy and sell federal funds; issue letters of credit for public deposits; and provide a safekeeping service for U.S. Treasury securities, federal agency securities, corporate bonds, tax-free bonds, money market investments, and mortgage-backed securities.

The Trust may become a member of the Federal Reserve.

The Trust may perform services currently contracted out by the Department of Social and Health Services related to electronic benefits transfer cards.

6. Financial and Reporting Requirements.

The Trust must maintain capital adequacy and other standard indicators of safety and soundness as is appropriate for a publicly owned financial institution. The Director may examine the Trust in the same manner as other state-chartered financial institutions, taking into consideration the

unique circumstances of a publicly owned financial institution. The Trust must undergo independent audits on the same basis as state-chartered banks.

The Trust must submit quarterly reports to the Commission, and the Commission must make annual reports to the Legislature.

7. Public Disclosure.

The following documents are exempt from public disclosure:

- financial and commercial information and records supplied to the Trust by businesses or individuals during application for loans or program services; and
- examination reports and information obtained by the Department from the Trust.

Financial and commercial information and records submitted to the Department or the Commission to administer the laws related to the Trust may be shared between the Department and the Treasurer.

8. Taxes.

The Trust is exempt from all fees and taxes levied by the state or its subdivisions.

Appropriation: None.

Fiscal Note: Requested on January 20, 2012.

Effective Date: The bill contains an emergency clause and takes effect immediately.