

# SENATE BILL REPORT

## SB 6000

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As of January 23, 2012

**Title:** An act relating to deposit and investment provisions for the prearrangement trust funds of cemetery authorities.

**Brief Description:** Concerning deposit and investment provisions for the prearrangement trust funds of cemetery authorities.

**Sponsors:** Senators Harper, King and Shin.

**Brief History:**

**Committee Activity:** Government Operations, Tribal Relations & Elections: 1/19/12.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

**Staff:** Sam Thompson (786-7413)

**Background:** The Department of Licensing (DOL) regulates cemetery authorities and funeral establishments.

Consumers may enter into prearrangement contracts with regulated cemetery authorities or funeral establishments for cemetery or funeral merchandise, services, or undeveloped graves, to be provided in the future. Cemetery authorities must deposit at least 50 percent of contract funds in a prearrangement trust fund (trust fund). Funeral establishments must deposit at least 90 percent of contract funds in a trust fund. Trust funds must be deposited in certain financial institutions or invested in federal instruments. They may not be used to benefit a cemetery authority or funeral establishment's officers or employees. Cemetery authorities and funeral establishments must annually file financial reports regarding trust funds, and trust funds are periodically examined by DOL.

Washington's prudent investor law generally requires fiduciaries investing property for others to exercise judgment and care that persons of prudence, discretion, and intelligence exercise in managing their own affairs. Within limits, fiduciaries may acquire every kind of property and investment that persons of prudence, discretion, and intelligence acquire for themselves.

**Summary of Bill:** Regulated cemetery authorities and funeral establishments may deposit trust funds in national or state-chartered financial institutions authorized to do business in the

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state, in addition to other currently authorized financial institutions. Trust funds need not be invested in federal instruments, but must be invested in accordance with Washington's prudent investor law; however, they may not be:

- borrowed by an officer, director, trustee, or relative of an officer, director, or trustee, of the cemetery authority or funeral authority;
- loaned to the cemetery authority or funeral authority, its agents or employees, or any business entity in which the cemetery or funeral authority has an ownership interest; or
- invested with persons or business entities operating in a business field directly related to cemeteries or funeral homes.

Trust funds may be invested in national- or state-chartered commercial banks, mutual savings banks, or savings and loan associations.

Provisions are deleted regarding naming of trust funds held by funeral establishments and prohibiting trust funds from being considered or used as assets.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Washington is one of only five states that have not modernized their laws as proposed in this bill. This bill allows prearrangement trust funds to be managed the same way that other trust funds are managed, applying the prudent investor law. Affected entities take this responsibility seriously. These funds are not counted as assets.

**Persons Testifying:** PRO: Senator Harper, prime sponsor; Steve Gano, Services Corporation International; T.K. Bentler, WA State Funeral Directors Assn. and WA State Cemetery, Cremation and Funeral Assn.