

SENATE BILL REPORT

SB 6468

As Reported by Senate Committee On:
Ways & Means, February 7, 2012

Title: An act relating to policies governing investments by state research universities.

Brief Description: Requiring state research universities to adopt policies governing investment of university funds, consistent with the uniform prudent management of institutional funds act, and requiring annual investment performance reports.

Sponsors: Senators Kilmer, Schoesler, Tom, Murray, Harper, Conway and Shin.

Brief History:

Committee Activity: Ways & Means: 2/01/12, 2/07/12 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6468 be substituted therefor, and the substitute bill do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Brown, Conway, Fraser, Harper, Hatfield, Hewitt, Holmquist Newbry, Honeyford, Kastama, Keiser, Kohl-Welles, Padden, Pridemore, Regala, Schoesler and Tom.

Staff: Maria Hovde (786-7710)

Background: The State Constitution prohibits giving or loaning the state's credit and the credit, money, or property of a municipality to an individual, association, company, or corporation. The State Constitution further prohibits the state from subscribing to, or being interested in, the stock of any company, association, or corporation. As a result of this prohibition, the operating monies of the state research universities are currently invested in government-backed securities and not private securities.

Notwithstanding these prohibitions, Article XXIX, section 1 of the State Constitution allows for the investment of the monies of any public pension or retirement fund, industrial insurance fund, or fund held in trust for the benefit of persons with developmental disabilities. Senate Joint Resolution 8223, if enacted by the Legislature, would send a referendum to the voters in the next general election to amend the State Constitution to allow the monies of the state research universities to be invested as authorized by law.

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.

Summary of Bill (Recommended Substitute): The regents of each state research university must adopt policies that govern investment of university funds. The policies must be consistent with the Uniform Prudent Management of Institutional Funds as specified in Chapter 24.55 RCW and must address investment objectives, asset allocation, investment parameters and guidelines, and the delegation of authority over investments. Investment policies developed by the state research institutions must also address potential personal conflicts of interest in accordance with the State Ethics Act as well as potential institutional conflicts of interest with the university's other enterprise and research activities, in accordance with applicable state and federal laws. These policies must be made available to the public.

The regents of each state research university must provide, no less than annually, a publicly available investment performance report that describes asset allocations and performance of investments.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Substitute): Investment policies developed by the state research institutions must also address potential personal conflicts of interest in accordance with the State Ethics Act as well as potential institutional conflicts of interest with the university's other enterprise and research activities, in accordance with applicable state and federal laws.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: The state has previously amended the Constitution to allow for broad investment of certain public funds. This bill will give the research universities the ability to broadly invest their funds which will allow them to make greater returns on their investments. Students are generally in favor of any proposal that helps increase funds of the universities to provide assistance to students in the form of tuition mitigation. The universities do not take this authority lightly and will proceed with due diligence. To clarify, this authority does not include investment of state funds, only locally held operating funds. This bill will help to leverage assets to generate aid to students without state investments. Currently, universities are restricted to investing in government-backed securities which have negatively impacted investment returns. The University of Washington (UW) is the third largest employer in the state that manages a \$1.0 billion research enterprise and a multi-hospital health system. Successful management of the university enterprise requires sophistication in financial management. This proposal allows diversity in investments to better manage risk and to generate a greater return. The privately funded endowments are currently managed in this way and, in accordance with the language in the bill, policies will be adopted that are consistent with the Uniform Prudent Management of Institutional Funds Act (UPMIFA.) With this authority, UW could generate at least \$11 million in annual returns over the long term, resulting in greater stability for the university. In total, approximately \$1.2 billion annually is available in locally held funds for the UW and

much of that is held in the university's hospital fund; for Washington State University (WSU), the total ranges from \$150 million to \$300 million annually.

OTHER: This authority would allow the institutions to actively invest in the same areas in which they are engaged in a particular industry, such as research, and raises the question of whether the UPMIFA is adequate for managing potential conflicts of interest. Conflicts of interest, for example, could occur if the UW were to invest in a company that is sponsor of a clinical trial at the university hospital or in a company that may be taking licensing to new technology in which the university has an interest. The UW's Center for Commercialization participates in active and competitive industry markets in which the university may choose to invest and that can lead to public perception of favoritism, insider trading, and a perception that the university will change its operations in order to improve its investments rather than to serve its primary public mission. There is the potential for insider trading and we need to ensure that inappropriate trades are not occurring. These issues are not addressed in the UPMIFA.

Persons Testifying: PRO: Senator Kilmer, prime sponsor; Andrew Lewis, Associated Students of the UW; Chris Mulick, WSU; Margaret Shepherd, Doug Breckel, UW.

OTHER: Gerald Barnett, citizen.