

SENATE BILL REPORT

SJR 8223

As Passed Senate, February 13, 2012

Brief Description: Amending the Constitution to provide clear authority to state research universities to invest funds as authorized by law, including investment in stocks or bonds issued by any company.

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

Brief History:

Committee Activity: Ways & Means: 2/01/12, 2/07/12 [DP, w/oRec].
Passed Senate: 2/13/12, 45-2.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

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

Minority Report: That it be referred without recommendation.

Signed by Senator Baumgartner.

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.

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.

Summary of Bill: The monies of state research universities are not subject to the constitutional prohibition on giving or loaning the state's credit to the extent that the monies are invested as authorized by statute.

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.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: This bill takes effect if ratified at the next general election.

Staff Summary of Public Testimony: 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 for 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 for 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 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 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. 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 or 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 UW; Chris Mulick, WSU; Margaret Shepherd, Doug Breckel, UW.

OTHER: Gerald Barnett, citizen.