

SENATE BILL REPORT

SHB 2936

As of February 29, 2016

Title: An act relating to public investments.

Brief Description: Concerning public investments.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Senn and Chandler; by request of State Treasurer).

Brief History: Passed House: 2/17/16, 97-1.

Committee Activity: Ways & Means: 2/29/16.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Steve Jones (786-7440)

Background: The state Constitution generally prohibits the state and local governments from investing in stocks and bonds of private corporations. Unless specifically exempted from these provisions, the investment of state funds is therefore effectively limited to government securities and certificates of deposit.

The state Constitution was amended in 1966, 1968, 1985, and 2000 to allow stock investments by the K-12 Common School Permanent Fund, public employee retirement funds, workers' compensation funds, and funds held in trust for the benefit of persons with disabilities. Over time, the provisions have been interpreted to allow some transactions with private financial institutions, such as banks. Public monies may be deposited in financial institutions that the Public Deposit Protection Commission approves as public depositories, and the rules and statutes governing such deposits have changed over time, such as the addition of qualified state and federal credit unions being added as limited public depositories in 2010 and 2012.

In a 1993 opinion, the Attorney General had advised that in narrow circumstances certain types of corporate debt acquired in the secondary market, such as commercial paper, may not be a constitutionally prohibited investment in stock or bonds. The opinion reasoned that some forms of corporate debt were considered distinct from bonds when the state Constitution was drafted, and their purchase creates no public ownership of a private entity as owning stock would.

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.

The State Investment Board adopts and regularly reviews guidelines that must be followed by the State Treasurer and local governments that wish to invest in commercial paper. The current policy was adopted in September 2015, and included requirements that the maturities of the paper not exceed 270 days, have very high credit ratings, not exceed 25 percent of the assets of a portfolio (nor more than 5 percent from a single issuer), and be purchased in the secondary market.

Different local governmental entities and special purpose districts are authorized to invest funds in many separate chapters and sections of the laws of Washington. For example, housing authorities are authorized by statute to invest in any investments permitted for savings banks, which include stock in small business investment companies, obligations of supranational entities including the International Bank for Reconstruction and Development, the Inter-American Development Bank, and the Asian, African, and other multilateral development banks in which the United States government participates, bankers' acceptances, bills of exchange, promissory notes secured by the pledge of investments otherwise permitted for purchase by the savings bank, loans to corporations, preferred stock, corporate bonds, or other corporate debt.

In contrast, excess and inactive funds in the treasury of a city may be invested in United States bonds or certificates of indebtedness; bonds or warrants of the state; general obligation or utility revenue bonds or warrants; bonds or warrants of a local improvement district; or other investments authorized by law for any other taxing district. Similarly the state and local governments are authorized to invest in any investments authorized by law for the state or any local government of the state other than a metropolitan municipal corporation.

Summary of Bill: The State Treasurer and higher education institutions are broadly authorized to invest in:

- bonds of the state of Washington and local government bonds with one of the three highest credit ratings of a nationally recognized rating agency;
- general obligation bonds of another state or local governments of another state with similarly high credit ratings; registered warrants of a local government in the same county as the government making the investment;
- certificates, notes, or bonds of the United States, any corporation wholly owned by the United States, or obligations issued or guaranteed by supranational institutions that have the United States as its largest shareholder; and
- bankers' acceptances, commercial paper, or corporate notes purchased on the secondary market.

Local governments are similarly authorized, but may invest in Washington and local government bonds without one of the three highest rating of a nationally recognized rating agency. Commercial paper and corporate notes must adhere to the State Investment Board investment policies to be eligible for local government, the State Treasurer, or higher education institutions investment.

The investment authority granted to higher education institutions in the bill does not limit the authority already provided in the laws pertaining to the University of Washington, the Washington State University, regional universities, The Evergreen State College, and the community and technical colleges.

Money market funds and certain types of mutual funds are eliminated from the definitions in the general laws authorizing investment of public funds, and changes are made to the definition of "state" for investment purposes to mean any state in the United States other than the state of Washington. The authority for the state and local governments to invest in any investments authorized by law for the state or any other local government is also eliminated. Local government authority to make investments specifically authorized for those entities is not limited by the repeal.

Authority for the State of Washington and any subdivision or local government to invest in debt secured by mortgages insured by the Federal Housing Administrator, or in bonds of the Home Owner's Loan Corporation is eliminated.

Authority for the State of Washington and any subdivision or local government to invest in notes, bonds, or debentures of savings and loan associations, banks, mutual savings banks, savings and loan service corporations, and corporate mortgage companies is eliminated.

The Higher Education Facilities Authority is granted the authority to invest funds held in reserve that are not required for immediate disbursement.

The authority of the State Finance Committee to administer and adopt rules relating to the investment of local government funds laws is repealed.

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: PRO: This bill is an efficiency measure that modernizes and aligns the statutes on public investments with the requirements of the state Constitution. The bill has no fiscal impact.

Persons Testifying: PRO: Rep. Kilduff, Prime Sponsor.