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SENATE BILL 6366

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State of Washington

55th Legislature

1998 Regular Session

By Senators Kline, Kohl, Fairley, Brown, Patterson, Thibaudeau and Oke

Read first time 01/16/98. Referred to Committee on Financial Institutions, Insurance & Housing.

1 AN ACT Relating to prohibiting investment of public pension and  
2 retirement funds in business firms manufacturing tobacco products;  
3 amending RCW 43.33A.110, 43.33A.130, 43.33A.140, and 43.84.150; adding  
4 a new section to chapter 43.33A RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature has committed substantial  
7 state resources to maintaining and improving the health of the  
8 residents of the state of Washington. The surgeon general of the  
9 United States has concluded that the use of tobacco is harmful to our  
10 health and the environmental protection agency has found that  
11 secondhand tobacco smoke causes cancer and respiratory disease.  
12 Recently the attorney general of the state of Washington has been  
13 involved in extensive litigation against tobacco companies.

14 In Washington, nearly eight hundred fifty thousand adults smoke  
15 cigarettes, and another seventy-five thousand use smokeless tobacco.  
16 Each year eight thousand Washington residents die prematurely from  
17 smoking-related diseases, including heart disease, stroke, cancer,  
18 emphysema, asthma, and bronchitis. Every person who dies from tobacco  
19 products loses an average of eleven and one-half years of life. The

1 medical costs related to tobacco use more than doubled between 1987 and  
2 1993. The direct medical costs related to smoking in Washington are  
3 estimated at seven hundred six million dollars annually. Between 1980  
4 and 1993, Washington's medicaid expenses attributable to smoking  
5 totaled more than one billion one hundred million dollars.

6 The legislature finds that direct or indirect investment of public  
7 pension and retirement funds in business firms that manufacture tobacco  
8 is inconsistent with its goals of maintaining and improving the health  
9 of Washington residents while making health care affordable.  
10 Accordingly, the legislature intends to prohibit the investment of  
11 public pension and retirement funds in business firms that manufacture  
12 tobacco.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.33A RCW  
14 to read as follows:

15 (1)(a) On or after January 1, 1999, the state investment board  
16 shall not make additional or new investments of public pension and  
17 retirement funds in the stocks, bonds, securities, or other evidence of  
18 indebtedness or ownership of business firms manufacturing tobacco  
19 products.

20 (b) Beginning January 1, 1999, the state investment board shall  
21 liquidate all investments of public pension and retirement funds in  
22 stocks, bonds, securities, or other evidence of indebtedness or  
23 ownership of business firms manufacturing tobacco products.

24 (2) The definitions in this section apply throughout this chapter  
25 and RCW 43.84.061 and 43.84.150.

26 (a) "Business firm" means any corporation operating as a for-profit  
27 entity and organized under the laws of a state of the United States and  
28 includes its subsidiaries or affiliates if involved in the manufacture  
29 of tobacco products.

30 (b) "Manufacture tobacco" means maintaining facilities, including  
31 plant and equipment, for growing tobacco and manufacturing tobacco  
32 products.

33 **Sec. 3.** RCW 43.33A.110 and 1994 c 154 s 310 are each amended to  
34 read as follows:

35 The state investment board may make appropriate rules and  
36 regulations for the performance of its duties. Subject to the  
37 prohibition contained in section 2 of this act, the board shall

1 establish investment policies and procedures designed exclusively to  
2 maximize return at a prudent level of risk. However, in the case of  
3 the department of labor and industries' accident, medical aid, and  
4 reserve funds, the board shall establish investment policies and  
5 procedures designed to attempt to limit fluctuations in industrial  
6 insurance premiums and, subject to this purpose, to maximize return at  
7 a prudent level of risk. The board shall adopt rules to ensure that  
8 its members perform their functions in compliance with chapter 42.52  
9 RCW. Rules adopted by the board shall be adopted pursuant to chapter  
10 34.05 RCW.

11 **Sec. 4.** RCW 43.33A.130 and 1981 c 3 s 13 are each amended to read  
12 as follows:

13 The state treasurer may cause any securities in which the state  
14 investment board deals to be registered in the name of a nominee  
15 without mention of any fiduciary relationship, except that adequate  
16 records shall be maintained to identify the actual owner of the  
17 security so registered. The securities so registered shall be held in  
18 the physical custody of the state treasurer, the federal reserve  
19 system, the designee of the state treasurer, or, at the election of the  
20 designee and upon approval of the state treasurer, the Depository Trust  
21 Company of New York City or its designees.

22 With respect to the securities, the nominee shall act only upon the  
23 order of the state treasurer who shall act only on the direction of the  
24 state investment board. All rights to the dividends, interest, and  
25 sale proceeds from the securities and all voting rights of the  
26 securities are vested in the actual owners of the securities, and not  
27 in the nominee. The voting rights of the securities shall be publicly  
28 exercised by the board in compliance with section 2 of this act.

29 **Sec. 5.** RCW 43.33A.140 and 1981 c 3 s 14 are each amended to read  
30 as follows:

31 Subject to the prohibition contained in section 2 of this act, any  
32 investments made by the state investment board shall be made with the  
33 exercise of that degree of judgment and care, under circumstances then  
34 prevailing, which persons of prudence, discretion, and intelligence  
35 exercise in the management of their own affairs, not for speculation  
36 but for investment, considering the probable safety of their capital as  
37 well as the probable income to be derived.

1       **Sec. 6.** RCW 43.84.150 and 1981 c 98 s 1 are each amended to read  
2 as follows:

3       Except where otherwise specifically provided by law, including  
4 section 2 of this act, the state investment board shall have full power  
5 to invest, reinvest, manage, contract, or sell or exchange investments  
6 acquired. Investments shall be made in accordance with RCW 43.33A.140  
7 and investment policy duly established and published by the state  
8 investment board. All funds shall be sufficiently diversified and no  
9 corporate fixed income issue or common stock holding may exceed three  
10 percent of the cost or six percent of the market value of the assets of  
11 any fund.

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