

SENATE BILL REPORT

SB 6310

As of January 24, 2012

Title: An act relating to establishing the Washington investment trust.

Brief Description: Creating the Washington investment trust.

Sponsors: Senators Keiser, Conway, Hargrove, Prentice, Frockt, Shin, Kohl-Welles, Nelson, Rolfes, Chase and Kline.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/25/12.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Edward Redmond (786-7471)

Background: The 2007 recession severely impacted local economies across the United States. Various states, in response, have considered operating state-owned financial institutions as a means to provide needed capital resources to their local economies. The Bank of North Dakota (BND), the sole state-owned bank in the nation, provides the model that these states are examining for possible adoption. The BND (established in 1919 with initial capitalization of \$2 million) operates as a banker's bank partnering to loan money to farmers, schools, and small businesses and purchasing municipal bonds from public institutions. As of 2011 the BND operated with an excess of \$270 million in capital and, over the past ten years, has returned an annual average of \$29.4 million to the state's General Fund.

The Department of Financial Institutions (DFI) is the agency responsible for monitoring and regulating financial institutions operating in Washington State. To legally operate as a bank in the state, a financial institution must either be state or federally chartered. In addition to being chartered, banks must acquire and maintain deposit insurance from the Federal Deposit Insurance Corporation (FDIC) to protect deposits from potential bank failure. Examination reports obtained by DFI from financial institutions are confidential and exempt from public disclosure.

Under Washington law, the Treasurer is responsible for state funds and is the chair of the Public Deposit Protection Commission. As chair, the Treasurer must ensure that state funds deposited in public depositaries are backed by 100 percent collateral, liquid, and provide a

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return on investment. To date, there is approximately \$5.5 billion in public depositaries, with \$2.3 billion in community banks. In 2009 the Treasurer returned approximately \$160 million to the state General Fund.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The Washington Investment Trust (Trust) is established as a new executive agency. The purposes of the Trust are to support economic development by providing financing for public works infrastructure and student loans, as well as providing specified treasury and banking services. The Trust becomes fully operational after various implementation stages have been completed. The following outlines the formation process of the Trust.

Washington Investment Trust Commission (Commission). The Commission is comprised of the Governor, Lieutenant Governor, and the Treasurer. The Commission, under the guidance of the DFI, has authority to adopt rules regarding safety and soundness standards of the Trust; criteria for evaluation, approving, and monitoring loans; eligibility requirements for Trust operations; ethics and conflict of interest requirements for the Commission, the board, and officers and employees of the Trust; and other topics as needed for efficient administration of the Trust.

The Commission may delegate duties and powers necessary to carry out the Trust's business to the Trust president. The Commission may not, however, delegate rulemaking or policy-making authority.

Trust Transition Board (Transition Board). The Transition Board is comprised of two senators, one from each caucus; two representatives, one from each caucus; and seven citizen members with a background in banking or finance. The President of the Senate and the Speaker of the House must jointly select the chair of the Transition Board from among the citizen members. The chair must convene the first meeting within 45 days of the effective date. The Transition Board may appoint an interim president and other staff, and may contract with people who have technical expertise. DFI must provide technical assistance.

The Transition Board must make recommendations to the Commission regarding a start-up business plan for the Trust that includes plans and timelines for functions that are new and functions transitioning to the Trust that were previously performed by another entity; initial capital requirements of the Trust; options for capitalizing the Trust; and other items requested by the Commission in order to commence Trust operations by July 1, 2013.

Management. The Commission must appoint a president with experience in banking. The president may hire employees and contract with people who have technical expertise.

Advisory Board (Board). The Board consists of 11 members appointed by the Governor and confirmed by the the Senate. Board members must be knowledgeable in banking and finance, and must represent a diversity of experience relevant to activities of the Trust. The Board must review the Trust's operations and make recommendations relating to the Trust's management, services, policies, and procedures.

Deposit of Public Funds. The Trust must serve as the depository for state monies once the Commission has determined it has built sufficient capacity to accept and manage state monies. The Commission must establish a process and timeframe for the deposit of state monies, taking into consideration the FDIC rules regarding minimum leverage capital requirements. The Treasurer must deposit state monies into the Trust in accordance with the timeframe and guidelines determined by the Commission.

Deposits are guaranteed by the full faith and credit of the state. The Commission must review state accounts that are not part of the treasury and make recommendations to the Legislature as to which accounts should be deposited in the Trust.

The Trust is exempt from the requirements of the Public Deposit Protection Commission.

Investments by the Trust. The Trust may invest state monies held in deposit that are not reasonably expected to be necessary to meet the short or intermediate-term liquidity needs of the state. The Treasurer retains authority to manage and invest the amount of funds necessary to meet the operational needs of state government.

Infrastructure Loans. The Trust is authorized to facilitate investment in and financing of construction, rehabilitation, replacement, and improvement of new and existing public infrastructure systems. However, before initiating operations, the Commission must present an implementation plan and any necessary legislation to the Governor and legislative committees that identify the public infrastructure systems that the Trust plans to target initially; identify any existing state programs that the Trust recommends be transferred under its umbrella, and the steps and timelines for the transitions; describe additional financing products and services the Trust plans to offer, the target markets, anticipated rates, terms and conditions; demonstrate how Trust products and services will increase access to capital for public infrastructure systems and complement those of existing public and private sources; and demonstrate how the Trust plans to maximize revenues and public benefit.

Student Loans. The Trust is authorized to administer a state guarantee loan program to assist students in need of low-cost student loans and related loan benefits to address educational needs as necessary to support student success. However, before initiating operations, the Commission must present an implementation plan and any necessary legislation to the Governor and legislative committees that identify the needs and benefits to selected students that the program targets initially; demonstrate how the Trust plans to maximize revenues and public benefit while minimizing public risk; demonstrate how the Trust will coordinate with the Office of Student Financial Assistance; and identify the ways that the program addresses the following issues related to loans: qualification criteria for students; obligations and options for loan repayment; requirements for loan guarantees and reserves; fee and interest rate structure; maximum loan amounts; and ensuring student awareness of grants, federal loans, and other financial aid programs.

Treasury and Banking Services. For financial institutions that make the Trust a reserve depository, the Trust may serve as a clearinghouse, including all facilities for providing domestic and foreign exchange, and may rediscount paper, on terms the Commission provides. The Trust may provide corporate trust services for the state and its political subdivisions. The Trust may buy and sell federal funds; issue letters of credit for public

deposits; and provide a safekeeping service for U.S. Treasury securities, federal agency securities, corporate bonds, tax-free bonds, money market investments, and mortgage-backed securities.

The Trust may become a member of the Federal Reserve.

The Trust may perform services currently contracted out by the Department of Social and Health Services regarding electronic benefits transfer cards.

Financial Regulation. The Trust must comply with DFI's regulatory provisions including examinations of its safety and soundness, and loaning standards. DFI must establish and use similar enforcement mechanisms, such as those used to regulate state-chartered banks, to ensure the safety and soundness of the trust.

The Trust must undergo independent audits on the same basis as state-chartered banks.

Reporting Requirements. The Trust must submit quarterly reports to DFI. By December 1 of each year, DFI must make a report to the Legislature on the affairs of the Trust.

Capitalization. The Commission must make recommendations in the form of draft legislation to the Legislature on options for capitalization.

Public Disclosure. Financial and commercial information and records supplied by businesses or individuals during application for loans or program services and examination reports and information obtained by DFI from the Trust are exempt from public disclosure.

State Treasurer's Functions. The Treasurer may maintain cash or demand deposits in the Trust in addition to qualified public depositories. Subject to the limitations in the bill, the Treasurer may invest funds when there are cash balances that are more than sufficient to meet the current expenditures.

Internal Loans. The Trust may not make a loan to a Board member, the President, or employees. Board members, the President, and employees must follow the State Ethics Act.

Taxes. The Trust is exempt from all fees and taxes levied by the state or its subdivisions.

Other Provisions. The Trust may be called a trust and may provide banking services without being called a bank.

Appropriation: None.

Fiscal Note: Requested on January 21, 2012.

Committee/Commission/Task Force Created: Yes.

Effective Date: The bill contains several effective dates. Please refer to the bill.