
SENATE BILL 5679

State of Washington

54th Legislature

1995 Regular Session

By Senators Oke and Pelz; by request of State Treasurer

Read first time 01/31/95. Referred to Committee on Financial Institutions & 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, 43.84.061, 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. The
12 Washington state department of health, through its state-wide cancer
13 registry program, reports that lung cancer kills over two thousand six
14 hundred Washington residents each year, with tobacco smoke by far the
15 most important cause, accounting for over eighty-five percent of these
16 deaths.

17 The legislature finds the investment of public pension and
18 retirement funds in business firms that manufacture tobacco is
19 inconsistent with its goals of maintaining and improving the health of

1 Washington residents while making health care affordable. Accordingly,
2 the legislature intends to prohibit the investment of public pension
3 and retirement funds in business firms that manufacture tobacco
4 products.

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

7 (1) On or after January 1, 1996, the state investment board shall
8 not make additional or new investments of public pension and retirement
9 funds in the stocks, bonds, securities, or other evidence of
10 indebtedness or ownership of business firms manufacturing tobacco
11 products.

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

14 (a) "Business firm" means any corporation operating as a for-profit
15 entity and organized under the laws of a state of the United States, or
16 any other jurisdiction, and includes its subsidiaries or affiliates if
17 involved in the manufacture of tobacco products.

18 (b) "Manufacture tobacco" means maintaining facilities, including
19 plant and equipment, for growing tobacco and manufacturing tobacco
20 products, and the maintenance and use of warehouses or other facilities
21 for the storage of tobacco products prior to their distribution.

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

24 The state investment board may make appropriate rules and
25 regulations for the performance of its duties. Subject to the
26 prohibition contained in section 2 of this act, the board shall
27 establish investment policies and procedures designed exclusively to
28 maximize return at a prudent level of risk. However, in the case of
29 the department of labor and industries' accident, medical aid, and
30 reserve funds, the board shall establish investment policies and
31 procedures designed to attempt to limit fluctuations in industrial
32 insurance premiums and, subject to this purpose, to maximize return at
33 a prudent level of risk. The board shall adopt rules to ensure that
34 its members perform their functions in compliance with chapter 42.52
35 RCW. Rules adopted by the board shall be adopted pursuant to chapter
36 34.05 RCW.

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

3 The state treasurer may cause any securities in which the state
4 investment board deals to be registered in the name of a nominee
5 without mention of any fiduciary relationship, except that adequate
6 records shall be maintained to identify the actual owner of the
7 security so registered. The securities so registered shall be held in
8 the physical custody of the state treasurer, the federal reserve
9 system, the designee of the state treasurer, or, at the election of the
10 designee and upon approval of the state treasurer, the Depository Trust
11 Company of New York City or its designees.

12 With respect to the securities, the nominee shall act only upon the
13 order of the state treasurer who shall act only on the direction of the
14 state investment board. All rights to the dividends, interest, and
15 sale proceeds from the securities and all voting rights of the
16 securities are vested in the actual owners of the securities, and not
17 in the nominee. The voting rights of the securities shall be publicly
18 exercised by the board in compliance with section 2 of this act.

19 **Sec. 5.** RCW 43.84.061 and 1965 ex.s. c 104 s 6 are each amended to
20 read as follows:

21 Any investments made (~~(hereunder)~~) under this chapter shall be made
22 with the exercise of that degree of judgment and care, under
23 circumstances then prevailing, which (~~(men)~~) persons of prudence,
24 discretion, and intelligence exercise in the management of their own
25 affairs, not for speculation but for investment, considering the
26 probable safety of their capital as well as the probable income to be
27 derived, except that investments of public pension and retirement funds
28 shall not be made in business firms that manufacture tobacco products.

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

31 Except where otherwise specifically provided by law, the state
32 investment board shall have full power to invest, reinvest, manage,
33 contract, or sell or exchange investments acquired. Investments shall
34 be made in accordance with this section, RCW 43.33A.140, section 2 of
35 this act, and investment policy duly established and published by the
36 state investment board. All funds shall be sufficiently diversified
37 and no corporate fixed income issue or common stock holding may exceed

1 three percent of the cost or six percent of the market value of the
2 assets of any fund.

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