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HOUSE BILL 2349

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State of Washington

53rd Legislature

1994 Regular Session

By Representatives Flemming, Valle, Veloria, Talcott, Holm, Dellwo, L. Johnson, Pruitt and H. Myers; by request of State Treasurer

Read first time 01/14/94. Referred to Committee on State Government.

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, 1995, 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 1989 c 179 s 1 are each amended to read  
23 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 42.18  
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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