

SENATE BILL REPORT

SB 5811

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 17, 2005

Title: An act relating to encouraging the ethical transfer of technology for the economic benefit of the state.

Brief Description: Encouraging the ethical transfer of technology for the economic benefit of the state.

Sponsors: Senator Kohl-Welles, Rasmussen and Regala; by request of Governor Gregoire.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/8/05, 2/17/05 [DPS].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5811 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Brown, Honeyford, Keiser and Prentice.

Staff: Jennifer Strus (786-7316)

Background: No officer of or higher education institution employee, including an employee of the Spokane Intercollegiate Research and Technology Institute (SIRTI) can have a direct or indirect beneficial interest in a contract or grant that the officer or employee has made, is involved in, or supervises. Further, the officer or employee cannot directly or indirectly accept any compensation, gratuity, or reward from someone who would receive a beneficial interest in the contract or grant. These criteria do not apply if the institution or SIRTI has a written administrative process in effect that identifies and manages, reduces or eliminates conflicting interests with respect to these transactions, and the employee or officer has complied with the policy. The policy must be adopted under the federal National Science Investigator Financial Disclosure and the federal public health service regulations.

The state ethics statutes applicable to employment after public service, compensation for official duties, compensation from outside activities, honoraria, gifts and use of persons, money or property for private gain apply to employees of higher education institutions as well as all other state employees.

Summary of Substitute Bill: Each state university, including any research or technology institute affiliated with a state university, and SIRTI, may develop, adopt, and implement written administrative policies that, upon approval by the Governor, apply in place of obligations imposed on state universities and state university research employees under the state ethics law.

The specific obligations in the ethics law to which these administrative policies apply are those related to financial interests in transactions, employment after public service, compensation for official duties, compensation for outside activities, honoraria, gifts, and use of persons, money, or property for private gain.

A state research university employees is deemed in compliance with the state ethics laws listed above if he or she follows the university's administrative processes. The administrative processes developed by the higher education institution regarding financial interests in transactions, compensation for official duties, honoraria, and gifts must be no less than the standards in the regulations of the U.S. Public Health Services and the Office of the Secretary of the Department of Health and Human Services regarding the promotion of objectivity in research.

The administrative processes regarding assisting in transactions, employment after public service, and compensation for outside activities must include a comprehensive system for the disclosure, review, and approval of outside work activities by state university research employees while assuring that the employees are fulfilling their employment obligations to the state university.

The administrative processes dealing with the use of persons, money, or property for private gain must include a reasonable determination by the university of acceptable private uses that have a de minimus cost to the university and a method to establish fair and reasonable reimbursement for private uses which are in excess of de minimus.

Substitute Bill Compared to Original Bill: Added regional universities and the Washington Technology Center to the definition of "state university."

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.

Testimony For: The state ethics law is widely viewed as having a chilling effect on technology transfer and university-industry relations. While the law, in general, has been good for the state as a whole, the restrictions on the research universities has not been as robust as it could be. The UW already has administrative procedures in place that could be used to manage the additional flexibility afforded by the revision in this bill.

Testimony Against: None.

Who Testified: PRO: Governor Christine Gregoire; Sen. Jeanne Kohl-Welles, prime sponsor; Alan Nelson, Technology Alliance, VisionGate, Inc., UW; Susannah Malarkey, Technology Alliance; Malcolm Parks, UW; Linda Hull, WBBA; Patti McKinnel Davis, WBBA; James Petersen, WSU; Scott Hazelgrove, Washington Technology Center.