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SECRETARY OF STATE

INITIATIVE MEASURE NO. 414

1 AN ACT Relating to the state investment board's consideration of
2 corporate responsibility principles when investing in private equity;
3 amending RCW 43.33A.110 and 43.33A.140; adding a new section to chapter
4 43.33A RCW; and creating new sections.

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

6 NEW SECTION. Sec. 1. The people of the state of Washington find
7 that:

8 (1) The state investment board's exercise of fiduciary duty should
9 be guided by the need for prudent investment of assets in a manner that
10 will be for the long-term benefit of fund beneficiaries.

11 (2) Private equity firms and the companies in which they invest
12 exercise an increasingly dominant role in the domestic and
13 international economy and, as such, have the power to set corporate,
14 environmental, labor, human rights, ethical, and other standards in
15 dozens of industries that employ and otherwise affect millions of
16 individuals in the United States and abroad.

17 (3) Unlike other investment entities, private equity firms are
18 subject to limited regulation and oversight, and are not required to
19 disclose basic information about their corporate activities.

1 (4) As a result of this lack of regulation, oversight, and
2 transparency, private equity firms and their portfolio companies
3 operate without public accountability and employ strategies and
4 practices that have resulted in job loss, declining employment
5 standards and conditions, environmental harm, underpayment of taxes,
6 undermining of service quality, and the threat of corruption.

7 (5) The harms caused by these private equity investment strategies
8 and portfolio company conduct threaten the long-term social and
9 economic interests of fund beneficiaries.

10 (6) To fulfill its fiduciary duty when making investment decisions
11 critical to the long-term economic well-being of fund beneficiaries,
12 the state investment board must consider the additional investment
13 risks posed by lack of transparency, poor employment practices,
14 environmental impacts, and other indicators of irresponsible corporate
15 behavior.

16 NEW SECTION. Sec. 2. A new section is added to chapter 43.33A RCW
17 to read as follows:

18 (1) The state investment board shall make reasonable efforts to
19 ensure that its private equity investments serve the long-term
20 interests of fund beneficiaries through the following methods:

21 (a) In deciding whether to make new private equity investments, the
22 state investment board shall, to the extent permitted by law, consider
23 the extent to which the private equity company and its portfolio
24 companies comply with the corporate responsibility principles set forth
25 in subsection (2) of this section.

26 (b) The state investment board shall, to the extent permitted by
27 law, make reasonable efforts to encourage the private equity companies
28 with which it invests and their portfolio companies to comply with the
29 corporate responsibility principles set forth in subsection (2) of this
30 section.

31 (2) Corporate responsibility principles include the following:

32 (a) Private equity companies should release to the public, on a
33 regular basis, the following information regarding their own operations
34 and those of their portfolio companies: Revenues, expenses, earnings,
35 taxes paid, government revenues received, executive compensation,
36 employment and compensation of nonmanagerial employees, and debt
37 levels, including debt to equity ratios.

1 (b) Private equity companies should adopt principles for their
2 portfolio companies, as well as the contractors, subcontractors, and
3 suppliers of their portfolio companies, that guarantee internationally
4 recognized rights of employees such as fair treatment, living wages and
5 benefits, a safe and healthy working environment, nondiscrimination,
6 and recognition of a collective bargaining representative chosen by a
7 majority of workers through any legally authorized method.

8 (c) Private equity companies and their portfolio companies should
9 mitigate climate risk, environmental harm, and related public health
10 damage, and should adhere to principles of transparency and public
11 reporting of their activities in these areas.

12 (d) Private equity companies and their portfolio companies should
13 actively promote, secure the fulfillment of, respect, ensure respect
14 for, and protect human rights recognized in international and domestic
15 law.

16 (e) Private equity companies and their portfolio companies should
17 pay their fair share of taxes and disclose the taxes paid by their
18 portfolio companies.

19 (f) Private equity companies and their portfolio companies should
20 neither participate in nor benefit from bribery as defined by RCW
21 9A.68.010 or any other corrupt activity, and should disclose official
22 determinations of such conduct.

23 (g) Private equity companies and their portfolio companies should
24 commit to regular monitoring by independent third parties to ensure
25 their compliance with these principles.

26 (3) Within one hundred twenty days of the effective date of this
27 act, the state investment board shall adopt policies and procedures for
28 the following:

29 (a) Evaluating the compliance of private equity companies and their
30 portfolio companies with the corporate responsibility principles set
31 forth in subsection (2) of this section.

32 (b) Considering the compliance of private equity companies and
33 their portfolio companies with the corporate responsibility principles
34 set forth in subsection (2) of this section in making decisions
35 regarding investments.

36 (c) Encouraging private equity companies with which it invests and
37 their portfolio companies to comply with the corporate responsibility

1 principles set forth in subsection (2) of this section and to support
2 changes to the tax laws that eliminate unfair advantages to private
3 equity companies.

4 (4) Within one hundred twenty days of the effective date of this
5 act, the state investment board shall adopt rules that require the
6 following:

7 (a) An opportunity for public comment on all new private equity
8 investments, and consideration of the substance of those comments,
9 before new investments are made.

10 (b) For each new private equity investment, a report from the board
11 to the public that sets forth the board's conclusions regarding the
12 compliance of the private equity company and its portfolio companies
13 with the corporate responsibility principles set forth in subsection
14 (2) of this section.

15 (c) Annual reports from the board to the public regarding the
16 compliance of private equity companies and their portfolio companies
17 with the corporate responsibility principles set forth in subsection
18 (2) of this section and regarding the board's efforts to encourage such
19 compliance.

20 (5) As used in this section, "portfolio company" includes any
21 company that is controlled by a private equity company or companies.
22 A portfolio company is controlled by a private equity company or
23 companies if the private equity company or companies control a majority
24 of the voting power; have the power, based on contracts, constituent
25 documents, or other means, to direct the management and policies of the
26 enterprise; or through any other means acquire a controlling interest
27 or effective control.

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

30 The state investment board may make appropriate rules (~~and~~
31 ~~regulations~~) for the performance of its duties. The board shall
32 establish investment policies and procedures designed exclusively to
33 maximize return at a prudent level of risk and to ensure that
34 investments serve the long-term interests of fund beneficiaries.

35 (~~However,~~) In the case of the department of labor and industries'
36 accident, medical aid, and reserve funds, the board shall additionally
37 establish investment policies and procedures designed to attempt to

1 limit fluctuations in industrial insurance premiums and, subject to
2 this purpose, to maximize return at a prudent level of risk. The board
3 shall adopt rules to ensure that its members perform their functions in
4 compliance with chapter 42.52 RCW. Rules adopted by the board shall be
5 adopted pursuant to chapter 34.05 RCW.

6 Sec. 4. RCW 43.33A.140 and 1998 c 14 s 1 are each amended to read
7 as follows:

8 The state investment board shall invest and manage the assets
9 entrusted to it with reasonable care, skill, prudence, and diligence
10 under circumstances then prevailing which a prudent person acting in a
11 like capacity and familiar with such matters would use in the conduct
12 of an activity of like character and purpose.

13 The board shall:

14 (1) Consider investments not in isolation, but in the context of
15 the investment of the particular fund as a whole and as part of an
16 overall investment strategy, which should incorporate risk and return
17 objectives reasonably suited for that fund; ~~((and))~~

18 (2) Diversify the investments of the particular fund unless,
19 because of special circumstances, the board reasonably determines that
20 the purposes of that fund are better served without diversifying.
21 However, no corporate fixed-income issue or common stock holding may
22 exceed three percent of the cost or six percent of the market value of
23 the assets of that fund; and

24 (3) Ensure that investments serve the long-term interests of fund
25 beneficiaries.

26 NEW SECTION. Sec. 5. The provisions of this act are to be
27 liberally construed to effectuate the intent, policies, and purposes of
28 this act.

29 NEW SECTION. Sec. 6. If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

1 NEW SECTION. Sec. 7. This act shall be known and cited as the
2 "Washington community, environment, and retirement protection act."

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