

REVENUE: Minimal revenue impact
FISCAL: Fiscal statement issued

Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: Erin Seiler, Administrator

Meeting Dates: 2/23

WHAT THE MEASURE DOES: Proposes amendment to Oregon Constitution providing that public universities are not constitutionally prohibited from owning stock in companies, associations or corporations. Refers proposed amendment to people for their approval or rejection at next regular general election.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Article XI, section 6 of the Oregon Constitution prohibits the State from owning stock, except under limited circumstances where the funds invested were donated/gifts or involved in technology transfers.

In 2013, the Oregon Legislative Assembly passed Senate Bill 270, establishing institutional boards for public universities that were part of the Oregon University System. The language of the measure stated that these universities were not to be considered a unit of local or municipal government or a state agency, board, commission or institution for purposes of state statutes or constitutional provisions and granted the universities the authority to manage their finances, including the ability to invest in equities (ORS 352.087(1) and ORS 352.033).

When the universities started exercising the duties, privileges and obligations granted by the measure, a legal question arose as to whether the prohibition against the State owning stock (Article XI, section 6) applies to them. Independent legal analysis suggests that the prohibition might apply, even with the statutory provisions of SB 270. The potential application of the prohibition makes it impossible for the universities to invest in equities without legal risk.

House Joint Resolution 203-A refers to voters, for their approval or rejection at the November 2016 General Election, an amendment to Article XI, section 6 of the Constitution permitting public universities to own stock in companies, associations or corporations.