

Pickens

continued from page 1

the report and referred to it as "an example of the sort of waste we're all concerned with in state government today."

Pickens sometimes is mentioned as a possible candidate for Texas governor.

During the period in question — from 1987 to 1990 — Pickens was chairman of the governor-appointed board overseeing the university in a small town near the Amarillo headquarters of Mesa Limited Partnership.

In November 1987, university officials announced a \$1.5 million endowment from Mesa and Pickens for the university's business school, which was subsequently renamed the T. Boone Pickens School of Business.

According to the auditor's report, Pickens "specifically authorized" the investment of endowment funds in Mesa. When the first donations of \$500,000 and \$100,000 were made, the money immediately was used to purchase Mesa stock, even though the university had never invested in the stock market before.

The auditor contends that the investment was made without consulting the rest of the

Board of Regents, and that it was not disclosed later in university financial statements.

University officials sent a letter to the auditor's office in Austin inquiring about whether university donations could be used in the stock market. But according to the report, "No mention was made of the donor's identity, the identity of the company in which the university planned to invest, or the relationship between the board chairman and the company."

Because of Pickens' connection to Mesa — as well as the personal investments of other university administrators in the company — the auditor concluded that the uni-

versity's investment might have violated the state's conflict of interest laws.

In his own presentation to lawmakers at the July 8 hearing, State Auditor Lawrence Alwin said those involved at West Texas had overlooked "basic controls" on public university funds.

"Perhaps because the relationship was so close," he said, "transactions involving large amounts of money were handled informally, in much the same manner as you might expect among family members."

The university officials identified as those who interacted with Pickens most often were then-university president Ed Roach and Chief Financial Officer Clarence Thompson. In addition to Pickens, they dealt with Mesa President Paul Cain and an unidentified Dallas stock broker.

Sherrod said the grand jury initially would focus on Roach and Thompson's activities, and later would turn to Pickens' involvement as chairman of the Board of Regents.

Comparing the board to a bank's board of directors, the prosecutor said state law assigns the university administrators the same sort of fiduciary responsibility for taxpayer funds as it does for consumers' bank deposits.

Asked about the investment of West Texas funds in Mesa, Sherrod called it suspicious that Pickens was on both sides of the transaction and that the investment was not disclosed in university financial reports.

"There are sure some suspect transactions that went on," he said. "But I don't know that that's Pickens' fault. It just kind of depends what the facts show."

According to the auditor's report, the endowment began to unravel in 1988, ostensibly because university officials were unable to raise any matching funds. The auditor contends that not all donations were contingent upon matching funds.

In transactions that followed, the auditor states:

- Pickens sought a refund of a \$500,000 contribution and then redirected nearly half that amount to a "salary supplement" fund for the university president.

- University officials consulted with a Mesa official who suggested that a donation refund be made in the form of Mesa stock on the basis of "simplicity."

- When Pickens requested a refund of his personal \$100,000 contribution, the university sold the Mesa stock that had been purchased with the money, and sent Pickens the premium along with \$51,000 in earnings.

- Pickens and Roach negotiated a "settlement" of the endowment in 1990 without consulting the rest of the board, deciding on a final \$225,000 donation to the university.

Shortly after the endowment episode ended, West Texas was merged with the Texas A&M University system, and the Board of Regents that Pickens headed was dissolved. Roach accepted a position at A&M, and Thompson went into retirement.

Roach submitted a 45-page response to the auditor's findings, in which he denied any intent to mismanage university funds or to participate in any conflict of interest.

He listed several reasons why Mesa stock was deemed a good investment, and he described the auditor's report as "nothing more than second-guessing and 20/20 hindsight."

The ex-university president also said he believes that Pickens was willing to donate as much as \$10 million to West Texas — enough to build new facilities for the school

continued from preceding page

of business. But he said that was before the businessman's relationship with the Amarillo area began to deteriorate.

Citing disagreements that Pickens had with local community leaders and an area newspaper, Roach said university officials accepted the \$225,000 settlement of the endowment because they knew Pickens would not be long for the West Texas region.

"Given the entire set of circumstances surrounding the gift, including the external environment that led to the board chairman moving to Dallas and his disassociation with the university," Roach stated, "all felt that this was the best course of action."

Pickens last year moved Mesa headquarters into a downtown Dallas skyscraper and purchased a home in University Park for his family.

Officials back at West Texas State University this week said they are not concentrating on the grand jury investigation as much as they are focusing on more conventional school business, like state funding cuts and homecoming parades.

"I'm very much at ease with where the university is right now," said new school president Barry Thompson. "We're moving forward."

Sherrod, who has been district attorney for 17 years, said he has encountered criticism from other segments of the community for his decision to proceed with a grand jury investigation.

A few Pickens loyalists have complained

that the probe might hurt the university. Some of the criticism was good-natured ribbing, he said, while some was mean-spirited harassment.

"You get that all the time," he added, "when you're dealing with someone who's well known."

The grand jury heard four hours of testimony last week from representatives of the state auditor's office. Sherrod said he expects to present more evidence within another couple of weeks and then to begin issuing subpoenas to individual witnesses.

He said he could not speculate on when Pickens might be called to testify.

The auditor's report also was submitted to the Texas attorney general's office and the Travis County district attorney in Austin.

Officials in the attorney general's office could not be reached for comment, and a Travis County prosecutor said officials in that office found no jurisdiction to take on the investigation themselves.

Assistant District Attorney Claire Dawson-Brown said because the university is located in Randall County, that is the best place for the investigation to occur.

Brown said she could not discuss the auditor's findings, but she was not surprised to hear that the prosecutor in Amarillo was feeling some community pressure to drop the probe.

"When you've got something that political, with that much money," she said, "sometimes a grand jury is the best place to go. Let the citizens decide."

continued on next page