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SECOND SUBSTITUTE SENATE BILL 5336

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State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Horn, Shin, McAuliffe, B. Sheldon, Constantine and Kline)

Read first time 02/12/2002. Referred to Committee on .

1 AN ACT Relating to a loan repayment endowment program for attorneys  
2 who provide legal services in public interest areas of the law;  
3 reenacting and amending RCW 43.79A.040; and adding a new chapter to  
4 Title 28B RCW.

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

6 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to provide  
7 affordable access to legal education and meet the legal needs of the  
8 state of Washington in public interest areas of the law. The high cost  
9 of attending law school requires that attorneys command high incomes to  
10 repay the financial obligations incurred in obtaining the required  
11 training. As a result of the need for high incomes, few attorneys are  
12 able to practice in public interest areas of the law, which  
13 traditionally pay substantially less than other areas. The legislature  
14 finds that encouraging outstanding law students and attorneys to  
15 practice in public interest areas of the law is essential to assuring  
16 access to legal services in areas of public interest.

1        NEW SECTION.    **Sec. 2.**    DEFINITIONS.    Unless the context clearly  
2 requires otherwise, the definitions in this section apply throughout  
3 this chapter.

4        (1) "Board" means the higher education coordinating board.

5        (2) "Eligible education and training programs" means education and  
6 training programs approved by the board that lead to eligibility for a  
7 license to practice law as a licensed attorney.

8        (3) "Eligible expenses" means reasonable expenses associated with  
9 the costs of acquiring an education such as tuition, books, equipment,  
10 fees, room and board, and other expenses determined by the board.

11       (4) "Eligible participant" means an eligible licensed attorney who  
12 is a resident of the state of Washington, and who can provide proof of  
13 residency including, but not limited to:

14       (a) Registration or payment of Washington taxes or fees on a motor  
15 vehicle, mobile home, travel trailer, boat, or any other item of  
16 personal property owned or used by the person for which state  
17 registration or the payment of a state tax or fees is required;

18       (b) Permanent full-time employment in the state of Washington; or

19       (c) Registration to vote for state officials in the state of  
20 Washington.

21       (5) "Forgiven" or "to forgive" or "forgiveness" means to render  
22 legal services in a public interest area of the law in the state of  
23 Washington in lieu of monetary repayment.

24       (6) "Licensed attorney" means an attorney who has successfully  
25 passed the Washington state bar exam and been admitted to practice in  
26 the state of Washington or has otherwise been licensed to practice law  
27 in the state of Washington by the Washington state bar association and  
28 who resides in the state of Washington.

29       (7) "Loan repayment" means a loan that is paid in full or in part  
30 if the participant renders legal services in Washington in a public  
31 interest area of the law.

32       (8) "Participant" means a licensed attorney who has received a loan  
33 repayment award and has commenced practice as a licensed attorney in  
34 Washington in a public interest area of the law.

35       (9) "Program" means the public interest attorney loan repayment  
36 program.

37       (10) "Public interest area of the law" means those areas of the law  
38 determined by the board in consultation with the advisory committee to  
39 serve the public interest including, but not limited to:

1 (a) Providing direct legal service at a legal services  
2 organization, the attorney general's office, prosecuting attorneys'  
3 offices, or criminal public defender association or program;

4 (b) Providing indirect legal services at a legal services  
5 organization, the attorney general's office, prosecuting attorneys'  
6 association, or criminal public defender association or program; or

7 (c) Practicing in some other capacity that the advisory committee  
8 determines serves the public interest.

9 (11) "Required service obligation" means an obligation by the  
10 participant to provide legal services in Washington in a public  
11 interest area of the law for a period of time to be established as  
12 provided for in this chapter.

13 (12) "Satisfied" means paid in full.

14 NEW SECTION. **Sec. 3.** PROGRAM--DUTIES OF BOARD. The public  
15 interest attorney loan repayment program is established for licensed  
16 attorneys who practice or agree to practice in public interest areas of  
17 the law in the state of Washington. The board may adopt rules  
18 necessary to implement this chapter. No state funds shall be used by  
19 the board in administering the program. Administrative costs incurred  
20 before establishment of the public interest attorney loan repayment  
21 endowment account may be reimbursed. In administering this program,  
22 once the balance in the public interest attorney loan repayment  
23 endowment account is five hundred thousand dollars from private  
24 sources, the board shall establish an advisory committee. The  
25 committee may include, but is not limited to, one representative from  
26 the Washington state bar association, one representative from the  
27 access to justice board, and up to two representatives from each of the  
28 law schools located in the state of Washington. The advisory committee  
29 shall also include one law student representative from each law school  
30 in the state.

31 (1) The advisory committee shall advise the board in performing the  
32 following duties:

33 (a) Adopting rules and developing guidelines to administer the  
34 program;

35 (b) Collecting and managing repayments from participants who do not  
36 meet their service obligations under this chapter; and

1 (c) Developing criteria for a contract for service in lieu of the  
2 service obligation where appropriate, that may be a combination of  
3 service and payment.

4 (2) The advisory committee shall publicize the program and solicit  
5 grants and donations from nonstate and private sources for the program,  
6 to be accepted by the board and deposited into the public interest  
7 attorney loan repayment endowment account.

8 (3) The advisory committee shall select licensed attorneys to  
9 participate in the loan repayment program. In selecting eligible  
10 participants, the committee may consider the following criteria:

11 (a) A demonstrated commitment on the part of the applicant to  
12 practice in public interest areas of the law;

13 (b) The financial need of the applicant;

14 (c) The demand for the type of public interest work the applicant  
15 seeks to perform;

16 (d) A declared interest by the applicant to practice in rural areas  
17 of the state of Washington where the need for public interest attorneys  
18 is high;

19 (e) The scholastic achievements of the applicant; and

20 (f) Any other criteria the committee deems relevant to the  
21 selection process.

22 NEW SECTION. **Sec. 4.** LOAN REPAYMENT--REQUIRED SERVICE OBLIGATION.

23 The board shall establish loan repayments for licensed attorneys who  
24 practice in a public interest area of the law. The amount of the loan  
25 repayment shall not exceed fifteen thousand dollars per year for a  
26 maximum of five years per individual. Participants incur an obligation  
27 to repay the loan under section 6 of this act unless they practice for  
28 one year in a public interest area of the law for each year of loan  
29 repayment received.

30 NEW SECTION. **Sec. 5.** LOAN REPAYMENT AWARDS. (1) The board may

31 grant loan repayment awards to eligible participants from the public  
32 interest attorney loan repayment endowment account.

33 (2) Funds appropriated for the program, including reasonable  
34 administrative costs, may be used by the board for the purposes of loan  
35 repayments. The board shall annually establish the total amount of  
36 funding to be awarded for loan repayments and such allocations shall be  
37 established based upon the best use of funding for that year.

1        NEW SECTION.        **Sec. 6.**        PARTICIPANT OBLIGATION--REPAYMENT

2 OBLIGATION.        Participants in the public interest attorney loan  
3 repayment program who are awarded loan repayments shall receive payment  
4 from the program for the purpose of repaying educational loans secured  
5 while attending a program of legal training that led to a license to  
6 practice law in the state of Washington.

7        (1) Participants shall agree to meet the required service  
8 obligation in a designated public interest area of the law.

9        (2) Repayment shall be limited to eligible educational and living  
10 expenses as determined by the board and shall include principal and  
11 interest.

12        (3) Loans from both government and private sources may be repaid by  
13 the program. Participants shall agree to allow the board access to  
14 loan records and to acquire information from lenders necessary to  
15 verify eligibility and to determine payments. Loans may not be  
16 renegotiated with lenders to accelerate repayment.

17        (4) Repayment of loans under this chapter shall begin no later than  
18 ninety days after the individual has become a participant. Payments  
19 shall be made quarterly, or more frequently if deemed appropriate by  
20 the board, to the participant or the lender until the loan is repaid or  
21 until the required service obligation is fulfilled and eligibility  
22 discontinues, whichever comes first.

23        (5) Should the participant discontinue practicing in a public  
24 interest area of the law, payments against the loans of the participant  
25 shall cease to be effective on the date that the participant  
26 discontinues service.

27        (6) Except for circumstances beyond their control, participants who  
28 serve less than the required service obligation shall be obligated to  
29 repay to the program an amount equal to twice the total amount paid by  
30 the program on their behalf in addition to any payments on the  
31 unsatisfied portion of the principal and interest. The board shall  
32 determine the applicability of this subsection.

33        (7) The board is responsible for the collection of payments made on  
34 behalf of participants from the participants who discontinue service  
35 before completion of the required service obligation. The board shall  
36 exercise due diligence in collection, maintaining all necessary records  
37 to ensure that the maximum amount of payment made on behalf of the  
38 participant is recovered. Collection under this section shall be

1 pursued using the full extent of the law, including wage garnishment if  
2 necessary.

3 (8) The board is not responsible for any outstanding payments on  
4 principal and interest to any lenders once a participant's eligibility  
5 expires.

6 NEW SECTION. **Sec. 7.** PUBLIC INTEREST ATTORNEY LOAN REPAYMENT  
7 ENDOWMENT ACCOUNT. (1) The public interest attorney loan repayment  
8 endowment account is created in the custody of the state treasurer.  
9 The account shall be a nontreasury account retaining its interest  
10 earnings in accordance with RCW 43.79A.040.

11 (2) The board shall deposit in the account all money received for  
12 the program. The account shall be self-sustaining and consist of  
13 nonstate and private contributions to the program and receipts from  
14 participant repayments. No state funds shall be deposited in the  
15 account or otherwise expended therefor.

16 (3) With the exception of the operating costs associated with the  
17 management of the account by the treasurer's office as authorized in  
18 chapter 43.79A RCW, the account shall be credited with all investment  
19 income earned by the account.

20 (4) Disbursements from the account, except for purposes of program  
21 administration, are exempt from appropriations and the allotment  
22 provisions of chapter 43.88 RCW. Money used for program  
23 administration is subject to the allotment and budgetary controls of  
24 chapter 43.88 RCW, and an appropriation is required for expenditures.

25 (5) Disbursements from the account shall be made only on the  
26 authorization of the board.

27 NEW SECTION. **Sec. 8.** TRANSFER OF PROGRAM ADMINISTRATION. After  
28 consulting with the board, the governor may transfer the administration  
29 of this program to another agency with an appropriate mission.

30 **Sec. 9.** RCW 43.79A.040 and 2001 c 201 s 4 and 2001 c 184 s 4 are  
31 each reenacted and amended to read as follows:

32 (1) Money in the treasurer's trust fund may be deposited, invested,  
33 and reinvested by the state treasurer in accordance with RCW 43.84.080  
34 in the same manner and to the same extent as if the money were in the  
35 state treasury.

1 (2) All income received from investment of the treasurer's trust  
2 fund shall be set aside in an account in the treasury trust fund to be  
3 known as the investment income account.

4 (3) The investment income account may be utilized for the payment  
5 of purchased banking services on behalf of treasurer's trust funds  
6 including, but not limited to, depository, safekeeping, and  
7 disbursement functions for the state treasurer or affected state  
8 agencies. The investment income account is subject in all respects to  
9 chapter 43.88 RCW, but no appropriation is required for payments to  
10 financial institutions. Payments shall occur prior to distribution of  
11 earnings set forth in subsection (4) of this section.

12 (4)(a) Monthly, the state treasurer shall distribute the earnings  
13 credited to the investment income account to the state general fund  
14 except under (b) and (c) of this subsection.

15 (b) The following accounts and funds shall receive their  
16 proportionate share of earnings based upon each account's or fund's  
17 average daily balance for the period: The public interest attorney  
18 loan repayment endowment account, the college savings program account,  
19 the Washington advanced college tuition payment program account, the  
20 agricultural local fund, the American Indian scholarship endowment  
21 fund, the basic health plan self-insurance reserve account, the  
22 Washington international exchange scholarship endowment fund, the  
23 developmental disabilities endowment trust fund, the energy account,  
24 the fair fund, the game farm alternative account, the grain inspection  
25 revolving fund, the juvenile accountability incentive account, the  
26 rural rehabilitation account, the stadium and exhibition center  
27 account, the youth athletic facility account, the self-insurance  
28 revolving fund, the sulfur dioxide abatement account, and the  
29 children's trust fund. However, the earnings to be distributed shall  
30 first be reduced by the allocation to the state treasurer's service  
31 fund pursuant to RCW 43.08.190.

32 (c) The following accounts and funds shall receive eighty percent  
33 of their proportionate share of earnings based upon each account's or  
34 fund's average daily balance for the period: The advanced right of way  
35 revolving fund, the advanced environmental mitigation revolving  
36 account, the city and county advance right-of-way revolving fund, the  
37 federal narcotics asset forfeitures account, the high occupancy vehicle  
38 account, the local rail service assistance account, and the  
39 miscellaneous transportation programs account.

1 (5) In conformance with Article II, section 37 of the state  
2 Constitution, no trust accounts or funds shall be allocated earnings  
3 without the specific affirmative directive of this section.

4 NEW SECTION. **Sec. 10.** CAPTIONS NOT LAW. Captions used in this  
5 chapter are not any part of the law.

6 NEW SECTION. **Sec. 11.** Sections 1 through 8 and 10 of this act  
7 constitute a new chapter in Title 28B RCW.

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