
SUBSTITUTE SENATE BILL 5693

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Wojahn, McDonald, Deccio, Thibaudeau, Roach, Winsley, Oke, Rasmussen, Prentice and Costa)

Read first time 03/03/1999. Referred to Committee on .

1 AN ACT Relating to establishing a public/private endowment for
2 developmental disabilities services; amending RCW 43.79A.040; and
3 adding a new chapter to Title 71A RCW.

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

5 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT. The legislature
6 recognizes that the main and most enduring support for persons with
7 developmental disabilities, along with public resources, is their
8 immediate and extended families. The legislature recognizes that these
9 families are searching for ways to provide for the long-term continuing
10 care of their disabled family member when the family can no longer
11 provide that care. It is the intent of the legislature to encourage
12 and assist families to engage in long-range financial planning and to
13 contribute to the lifetime care of their disabled family member. To
14 further these objectives, this chapter is enacted to finance long-term
15 care for persons with developmental disabilities through an endowment
16 funded jointly by the investment of public funds and dedicated family
17 contributions.

18 The establishment of this endowment is not intended to diminish the
19 state's responsibility for funding either current service entitlements

1 or posthigh school transition programs for persons with developmental
2 disabilities, nor is it the intent of the legislature, by the creation
3 of this public/private endowment, to impose additional, unintended
4 financial liabilities on the public.

5 NEW SECTION. **Sec. 2.** DEVELOPMENTAL DISABILITIES ENDOWMENT TRUST
6 FUND. (1) The developmental disabilities endowment trust fund is
7 created in the custody of the state treasurer. Expenditures from the
8 fund may be used only for the purposes of the developmental
9 disabilities endowment established under this chapter. Only the
10 developmental disabilities endowment governing board or the board's
11 designee may authorize expenditures from the fund. The fund shall be
12 a discrete nontreasury account retaining its interest earnings in
13 accordance with RCW 43.79A.040.

14 (2) The developmental disabilities endowment governing board shall
15 deposit in the fund all money received for the program, including state
16 appropriations and private matching contributions. With the exception
17 of investment and operating costs associated with the investment of
18 money by the investment board paid under RCW 43.33A.160 and 43.84.160,
19 the fund shall be credited with all investment income earned by the
20 fund. Disbursements from the fund are exempt from appropriations and
21 the allotment provisions of chapter 43.88 RCW. However, money used for
22 program administration is subject to the allotment and budgetary
23 controls of chapter 43.88 RCW, and an appropriation is required for
24 these expenditures.

25 NEW SECTION. **Sec. 3.** INVESTMENT OF FUNDS. (1) The state
26 investment board has the full power to invest, reinvest, manage,
27 contract, sell, or exchange investment money in the developmental
28 disabilities endowment trust fund. All investment and operating costs
29 associated with the investment of money shall be paid under RCW
30 43.33A.160 and 43.84.160. With the exception of these expenses, the
31 earnings from the investment of the money shall be retained by the
32 fund.

33 (2) All investments made by the state investment board shall be
34 made with the exercise of that degree of judgment and care under RCW
35 43.33A.140 and the investment policy established by the state
36 investment board.

1 (3) As deemed appropriate by the investment board, money in the
2 fund may be commingled for investment with other funds subject to
3 investment by the board.

4 (4) The authority to establish all policies relating to the fund,
5 other than the investment policies as set forth in subsections (1)
6 through (3) of this section, resides with the developmental
7 disabilities endowment governing board acting in accordance with the
8 principles set forth in section 5 of this act. With the exception of
9 expenses of the investment board set forth in subsection (1) of this
10 section, disbursements from the fund shall be made only on the
11 authorization of the developmental disabilities endowment governing
12 board or the board's designee, and money in the fund may be spent only
13 for the purposes of the developmental disabilities endowment program as
14 specified in this chapter.

15 (5) The investment board shall routinely consult and communicate
16 with the developmental disabilities endowment governing board on the
17 investment policy, earnings of the trust, and related needs of the
18 program.

19 NEW SECTION. **Sec. 4.** DEVELOPMENTAL DISABILITIES ENDOWMENT
20 GOVERNING BOARD. The developmental disabilities endowment governing
21 board is established to design and administer the developmental
22 disabilities endowment. The director of the department of community,
23 trade, and economic development shall provide staff and administrative
24 support to the governing board.

25 (1) The governing board shall consist of seven members as follows:

26 (a) Three of the members, who shall be appointed by the governor,
27 shall be persons who have demonstrated expertise and leadership in
28 areas such as finance, actuarial science, management, business, or
29 public policy.

30 (b) Three members of the board, who shall be appointed by the
31 governor, shall be persons who have demonstrated expertise and
32 leadership in areas such as business, developmental disabilities
33 service design, management, or public policy, and shall be family
34 members of persons with developmental disabilities.

35 (c) The seventh member of the board, who shall serve as chair of
36 the board, shall be appointed by the remaining six members of the
37 board.

1 (2) Members of the board shall serve terms of four years and may be
2 appointed for successive terms of four years at the discretion of the
3 appointing authority. However, the governor may stagger the terms of
4 the initial six members of the board so that approximately one-fourth
5 of the members' terms expire each year.

6 (3) Members of the board shall be compensated for their service
7 under RCW 43.03.240 and shall be reimbursed for travel expenses as
8 provided in RCW 43.03.050 and 43.03.060.

9 (4) The board shall meet periodically as specified by the call of
10 the director, chair, or a majority of the board.

11 NEW SECTION. **Sec. 5.** ENDOWMENT PRINCIPLES. The design,
12 implementation, and administration of the developmental disabilities
13 endowment shall be governed by the following principles:

14 (1) The design and operation of the endowment should reward
15 families who set aside resources for their child's future care and
16 provide incentives for continued caregiving by the family.

17 (2) The endowment should encourage financial planning and reward
18 caregiving by a broad range of families, not just those who have
19 substantial financial resources.

20 (3) Families should not feel compelled to contribute to the
21 endowment in order to assure a basic level of continuing care for their
22 child.

23 (4) All families should have equal access to developmental
24 disabilities services not funded through the endowment regardless of
25 whether they contribute to the endowment.

26 (5) Services funded through the endowment should be stable,
27 ongoing, of reasonable quality, and respectful of individual and family
28 preferences.

29 (6) Endowment resources should be expended economically in order to
30 benefit as many families as possible.

31 (7) Endowment resources should be managed prudently so that
32 families can be confident that their agreement with the endowment on
33 behalf of their child will be honored.

34 (8) The private financial contribution on behalf of each person
35 receiving services from the endowment shall be at least equal to the
36 state's contribution to the endowment.

37 (9) In order to be matched with funding from the state's
38 contribution to the endowment, the private contribution on behalf of a

1 beneficiary must be sufficient to support the beneficiary's approved
2 service plan for a significant portion of the beneficiary's anticipated
3 remaining lifetime.

4 (10) The rate that state appropriations to the endowment are used
5 to match private contributions shall be such that each legislative
6 appropriation to the developmental disabilities endowment trust fund,
7 including principal and investment income, is not depleted in a period
8 of less than five years.

9 (11) Private contributions made on behalf of a particular
10 individual, and the associated state match, shall only be used for
11 services provided upon that person's behalf.

12 NEW SECTION. **Sec. 6.** PROPOSED OPERATING PLAN. The developmental
13 disabilities endowment governing board shall contract with an
14 appropriate organization for the development of a proposed operating
15 plan for the developmental disabilities endowment program. The
16 proposed operating plan shall be consistent with the endowment
17 principles specified in section 5 of this act. The plan shall address
18 at least the following elements:

19 (1) The recommended types of services to be available through the
20 endowment program and their projected average costs per beneficiary;

21 (2) An assessment of the number of people likely to apply for
22 participation in the endowment under alternative rates of matching
23 funds, minimum service year requirements, and contribution timing
24 approaches;

25 (3) An actuarial analysis of the number of disabled beneficiaries
26 who are likely to be supported under alternative levels of public
27 contribution to the endowment, and the length of time the beneficiaries
28 are likely to be served, under alternative rates of matching funds,
29 minimum service year requirements, and contribution timing approaches;

30 (4) Recommended eligibility criteria for participation in the
31 endowment program;

32 (5) Recommended policies regarding withdrawal of private
33 contributions from the endowment in cases of movement out of state,
34 death of the beneficiary, or other circumstances;

35 (6) Recommended matching rate of public and private contributions
36 and, for each beneficiary, the maximum annual and lifetime amount of
37 private contributions eligible for public matching funds;

1 (7) The recommended minimum years of service on behalf of a
2 beneficiary that must be supported by private contributions in order
3 for the contributions to qualify for public matching funds from the
4 endowment;

5 (8) The recommended schedule according to which lump sum or
6 periodic private contributions should be made to the endowment in order
7 to qualify for public matching funds;

8 (9) A recommended program for educating families about the
9 endowment, and about planning for their child's long-term future; and

10 (10) Recommended criteria and procedure for selecting an
11 organization or organizations to administer the developmental
12 disabilities endowment program, and projected administrative costs.

13 NEW SECTION. **Sec. 7.** PROGRAM IMPLEMENTATION AND ADMINISTRATION.

14 Based on the proposed operating plan under section 6 of this act, the
15 developmental disabilities endowment governing board shall implement
16 and administer, or contract for the administration of, the
17 developmental disabilities endowment program under the principles
18 specified in section 5 of this act. By October 1, 2000, and prior to
19 implementation, the final program design shall be submitted to the
20 appropriate committees of the legislature.

21 The director of the department of community, trade, and economic
22 development and the secretary of the department of social and health
23 services shall seek to maximize federal reimbursement and matching
24 funds for expenditures made under the endowment program, and shall seek
25 waivers from federal requirements as necessary for the receipt of
26 federal funds.

27 The governing board may receive gifts, grants, and endowments from
28 public or private sources as may be made from time to time, in trust or
29 otherwise, for the use and benefit of the purposes of the endowment
30 program and may expend the gifts, grants, and endowments according to
31 their terms.

32 **Sec. 8.** RCW 43.79A.040 and 1998 c 268 s 1 are each amended to read
33 as follows:

34 (1) Money in the treasurer's trust fund may be deposited, invested,
35 and reinvested by the state treasurer in accordance with RCW 43.84.080
36 in the same manner and to the same extent as if the money were in the
37 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 Washington advanced college
18 tuition payment program account, the agricultural local fund, the
19 American Indian scholarship endowment fund, the Washington
20 international exchange scholarship endowment fund, the developmental
21 disabilities endowment trust fund, the energy account, the fair fund,
22 the game farm alternative account, the grain inspection revolving fund,
23 the rural rehabilitation account, the stadium and exhibition center
24 account, the youth athletic facility grant account, the self-insurance
25 revolving fund, the sulfur dioxide abatement account, and the
26 children's trust fund. However, the earnings to be distributed shall
27 first be reduced by the allocation to the state treasurer's service
28 fund pursuant to RCW 43.08.190.

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

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

1 NEW SECTION. **Sec. 9.** CAPTIONS NOT LAW. Captions used in this
2 chapter are not any part of the law.

3 NEW SECTION. **Sec. 10.** Sections 1 through 7 and 9 of this act
4 constitute a new chapter in Title 71A RCW.

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