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**SUBSTITUTE SENATE BILL 5336**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Higher Education (originally sponsored by Senators Kohl-Welles, Horn, Shin, McAuliffe, B. Sheldon, Constantine and Kline)

READ FIRST TIME 02/09/01.

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 amending RCW 43.79A.040; and adding a new chapter to Title 28B RCW.

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

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

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

- 1 (1) "Board" means the higher education coordinating board.
- 2 (2) "Eligible education and training programs" means education and  
3 training programs approved by the board that lead to eligibility for a  
4 license to practice law as a licensed attorney.
- 5 (3) "Eligible expenses" means reasonable expenses associated with  
6 the costs of acquiring an education such as tuition, books, equipment,  
7 fees, room and board, and other expenses determined by the board.
- 8 (4) "Eligible participant" means an eligible licensed attorney who  
9 is a resident of the state of Washington, and who can provide proof of  
10 residency including, but not limited to:
- 11 (a) Registration or payment of Washington taxes or fees on a motor  
12 vehicle, mobile home, travel trailer, boat, or any other item of  
13 personal property owned or used by the person for which state  
14 registration or the payment of a state tax or fees is required;
- 15 (b) Permanent full-time employment in the state of Washington; or
- 16 (c) Registration to vote for state officials in the state of  
17 Washington.
- 18 (5) "Forgiven" or "to forgive" or "forgiveness" means to render  
19 legal services in a public interest area of the law in the state of  
20 Washington in lieu of monetary repayment.
- 21 (6) "Licensed attorney" means an attorney who has successfully  
22 passed the Washington state bar exam and been admitted to practice in  
23 the state of Washington or has otherwise been licensed to practice law  
24 in the state of Washington by the Washington state bar association and  
25 who resides in the state of Washington.
- 26 (7) "Loan repayment" means a loan that is paid in full or in part  
27 if the participant renders legal services in Washington in a public  
28 interest area of the law.
- 29 (8) "Participant" means a licensed attorney who has received a loan  
30 repayment award and has commenced practice as a licensed attorney in  
31 Washington in a public interest area of the law.
- 32 (9) "Program" means the public interest attorney loan repayment  
33 program.
- 34 (10) "Public interest area of the law" means those areas of the law  
35 determined by the board in consultation with the advisory committee to  
36 serve the public interest including, but not limited to:
- 37 (a) Providing direct legal service at a legal services  
38 organization, the attorney general's office, prosecuting attorneys'  
39 offices, or criminal public defender association or program;

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

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

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

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

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

25 (1) The advisory committee shall advise the board in performing the  
26 following duties:

27 (a) Adopting rules and developing guidelines to administer the  
28 program;

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

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

34 (2) The advisory committee shall publicize the program and solicit  
35 grants and donations from public and private sources for the program,  
36 to be accepted by the board and deposited into the public interest  
37 attorney loan repayment endowment account.

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

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

6 (b) The financial need of the applicant;

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

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

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

13 (f) Any other criteria the committee deems relevant to the  
14 selection process.

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

16 The board shall establish loan repayments for licensed attorneys who  
17 practice in a public interest area of the law. The amount of the loan  
18 repayment shall not exceed fifteen thousand dollars per year for a  
19 maximum of five years per individual. Participants incur an obligation  
20 to repay the loan under section 6 of this act unless they practice for  
21 one year in a public interest area of the law for each year of loan  
22 repayment received.

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

24 grant loan repayment awards to eligible participants from the funds  
25 appropriated for this purpose, or from any private or public funds  
26 deposited in the public interest attorney loan repayment endowment  
27 account.

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

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

34 OBLIGATION. Participants in the public interest attorney loan  
35 repayment program who are awarded loan repayments shall receive payment  
36 from the program for the purpose of repaying educational loans secured

1 while attending a program of legal training that led to a license to  
2 practice law in the state of Washington.

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

5 (2) Repayment shall be limited to eligible educational and living  
6 expenses as determined by the board and shall include principal and  
7 interest.

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

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

19 (5) Should the participant discontinue practicing in a public  
20 interest area of the law, payments against the loans of the participant  
21 shall cease to be effective on the date that the participant  
22 discontinues service.

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

29 (7) The board is responsible for the collection of payments made on  
30 behalf of participants from the participants who discontinue service  
31 before completion of the required service obligation. The board shall  
32 exercise due diligence in collection, maintaining all necessary records  
33 to ensure that the maximum amount of payment made on behalf of the  
34 participant is recovered. Collection under this section shall be  
35 pursued using the full extent of the law, including wage garnishment if  
36 necessary.

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

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

6        (2) The board shall deposit in the account all money received for  
7    the program. The account shall be self-sustaining and consist of funds  
8    appropriated by the legislature for the public interest attorney loan  
9    repayment program, private contributions to the program, and receipts  
10   from participant repayments.

11       (3) Expenditures from the account shall not exceed half of each  
12   appropriation by the legislature until the program becomes self-  
13   sustaining and shall be used for loan repayments for eligible attorneys  
14   and the board's administrative costs associated with the awarding,  
15   tracking, and collection of the loans. Appropriations to the program  
16   shall end when the account becomes self-sustaining.

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

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

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

28       NEW SECTION.    **Sec. 8.**    POWERS AND DUTIES OF THE INVESTMENT BOARD.

29    (1) The investment board has the full power to invest, reinvest,  
30    manage, contract, sell, or exchange investment money in the account.  
31    All investment and operating costs associated with the investment of  
32    money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the  
33    exception of these expenses, the earnings from the investment of the  
34    money shall be retained by the account.

35       (2) All investments made by the investment board shall be made with  
36    the exercise of that degree of judgment and care pursuant to RCW  
37    43.33A.140 and the investment policy established by the state  
38    investment board.

1 (3) As deemed appropriate by the investment board, money in the  
2 account 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  
5 account, other than the investment policies in subsections (1) through  
6 (3) of this section, resides with the board. With the exception of  
7 expenses of the investment board in subsection (1) of this section,  
8 disbursements from the account shall be made only on the authorization  
9 of the governing body, and money in the account may be spent only for  
10 the purposes of the program as specified in this chapter.

11 (5) The investment board shall routinely consult and communicate  
12 with the higher education coordinating board on the investment policy,  
13 earnings of the trust, and related needs of the program.

14 NEW SECTION. **Sec. 9.** TRANSFER OF PROGRAM ADMINISTRATION. After  
15 consulting with the board, the governor may transfer the administration  
16 of this program to another agency with an appropriate mission.

17 **Sec. 10.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to  
18 read as follows:

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

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

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

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

1 (b) The following accounts and funds shall receive their  
2 proportionate share of earnings based upon each account's or fund's  
3 average daily balance for the period: The public interest attorney  
4 loan repayment endowment account, the Washington advanced college  
5 tuition payment program account, the agricultural local fund, the  
6 American Indian scholarship endowment fund, the basic health plan self-  
7 insurance reserve account, the Washington international exchange  
8 scholarship endowment fund, the developmental disabilities endowment  
9 trust fund, the energy account, the fair fund, the game farm  
10 alternative account, the grain inspection revolving fund, the juvenile  
11 accountability incentive account, the rural rehabilitation account, the  
12 stadium and exhibition center account, the youth athletic facility  
13 ((grant)) account, the self-insurance revolving fund, the sulfur  
14 dioxide abatement account, and the children's trust fund. However, the  
15 earnings to be distributed shall first be reduced by the allocation to  
16 the state treasurer's service fund pursuant to RCW 43.08.190.

17 (c) The following accounts and funds shall receive eighty percent  
18 of their proportionate share of earnings based upon each account's or  
19 fund's average daily balance for the period: The advanced right of way  
20 revolving fund, the advanced environmental mitigation revolving  
21 account, the federal narcotics asset forfeitures account, the high  
22 occupancy vehicle account, the local rail service assistance account,  
23 and the miscellaneous transportation programs account.

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

27 NEW SECTION. Sec. 11. CAPTIONS NOT LAW. Captions as used in this  
28 chapter are not any part of the law.

29 NEW SECTION. Sec. 12. Sections 1 through 9 and 11 of this act  
30 constitute a new chapter in Title 28B RCW.

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