

SHB 2612 - S COMM AMD
By Committee on Higher Education

ADOPTED 03/07/2014

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 28B.145.010 and 2013 c 39 s 13 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Board" means the (~~higher education coordinating board or its~~
8 ~~successor~~) opportunity scholarship board.

9 (2) "Council" means the student achievement council.

10 (3) "Eligible education programs" means high employer demand and
11 other programs of study as determined by the (~~opportunity~~
12 ~~scholarship~~) board.

13 (~~(3)~~) (4) "Eligible expenses" means reasonable expenses
14 associated with the costs of acquiring an education such as tuition,
15 books, equipment, fees, room and board, and other expenses as
16 determined by the program administrator in consultation with the
17 (~~board~~) council and the state board for community and technical
18 colleges.

19 (~~(4)~~) (5) "Eligible student" means a resident student who
20 received his or her high school diploma or high school equivalency
21 certificate as provided in RCW 28B.50.536 in Washington and who:

22 (a)(i) Has been accepted at a four-year institution of higher
23 education into an eligible education program leading to a baccalaureate
24 degree; or

25 (ii) Will attend a two-year institution of higher education and
26 intends to transfer to an eligible education program at a four-year
27 institution of higher education;

28 (b) Declares an intention to obtain a baccalaureate degree; and

29 (c) Has a family income at or below one hundred twenty-five percent

1 of the state median family income at the time the student applies for
2 an opportunity scholarship.

3 ((+5)) (6) "High employer demand program of study" has the same
4 meaning as provided in RCW 28B.50.030.

5 ((+6)) (7) "Participant" means an eligible student who has
6 received a scholarship under the opportunity scholarship program.

7 ((+7)) (8) "Program administrator" means a college scholarship
8 organization that is a private nonprofit corporation registered under
9 Title 24 RCW and qualified as a tax-exempt entity under section
10 501(c)(3) of the federal internal revenue code, with expertise in
11 managing scholarships and college advising.

12 ((+8)) (9) "Resident student" has the same meaning as provided in
13 RCW 28B.15.012.

14 **Sec. 2.** RCW 28B.145.020 and 2011 1st sp.s. c 13 s 3 are each
15 amended to read as follows:

16 (1) The opportunity scholarship board is created. The
17 ((~~opportunity scholarship~~)) board consists of ((~~seven~~)) eleven members:

18 (a) ((~~Three~~)) Six members appointed by the governor. For ((~~two~~))
19 three of the ((~~three~~)) six appointments, the governor shall consider
20 names from a list provided by the president of the senate and the
21 speaker of the house of representatives; and

22 (b) ((~~Four~~)) Five foundation or business and industry
23 representatives appointed by the governor from among the state's most
24 productive industries such as aerospace, manufacturing, health
25 ((~~sciences~~)) care, information technology, engineering, agriculture,
26 and others, as well as philanthropy. The foundation or business and
27 industry representatives shall be selected from among nominations
28 provided by the private sector donors to the opportunity scholarship
29 and opportunity expansion programs. However, the governor may request,
30 and the private sector donors shall provide, an additional list or
31 lists from which the governor shall select these representatives.

32 (2) Board members shall hold their offices for a term of four years
33 from the first day of September and until their successors are
34 appointed. No more than the terms of two members may expire
35 simultaneously on the last day of August in any one year.

36 (3) The members of the ((~~opportunity scholarship~~)) board shall

1 elect one of the business and industry representatives to serve as
2 chair.

3 (4) (~~(Five)~~) Seven members of the board constitute a quorum for the
4 transaction of business. In case of a vacancy, or when an appointment
5 is made after the date of expiration of the term, the governor or the
6 president of the senate or the speaker of the house of representatives,
7 depending upon which made the initial appointment to that position,
8 shall fill the vacancy for the remainder of the term of the board
9 member whose office has become vacant or expired.

10 (5) The (~~(opportunity scholarship)~~) board shall be staffed by the
11 program administrator.

12 (6) The purpose of the (~~(opportunity scholarship)~~) board is to
13 provide oversight and guidance for the opportunity expansion and the
14 opportunity scholarship programs in light of established legislative
15 priorities and to fulfill the duties and responsibilities under this
16 chapter, including but not limited to determining eligible education
17 programs for purposes of the opportunity scholarship program. Duties,
18 exercised jointly with the program administrator, include soliciting
19 funds and setting annual fund-raising goals.

20 (7) The (~~(opportunity scholarship)~~) board may report to the
21 governor and the appropriate committees of the legislature with
22 recommendations as to:

23 (a) Whether some or all of the scholarships should be changed to
24 conditional scholarships that must be repaid in the event the
25 participant does not complete the eligible education program; and

26 (b) A source or sources of funds for the opportunity expansion
27 program in addition to the voluntary contributions of the high
28 technology research and development tax credit under RCW 82.32.800.

29 **Sec. 3.** RCW 28B.145.030 and 2011 1st sp.s. c 13 s 4 are each
30 amended to read as follows:

31 (1) The program administrator, under contract with the (~~(board)~~)
32 council, shall staff the (~~(opportunity scholarship)~~) board and shall
33 have the duties and responsibilities provided in this chapter,
34 including but not limited to publicizing the program, selecting
35 participants for the opportunity scholarship award, distributing
36 opportunity scholarship awards, and achieving the maximum possible rate
37 of return on investment of the accounts in subsection (2) of this

1 section, while ensuring transparency in the investment decisions and
2 processes. Duties, exercised jointly with the ((~~opportunity~~
3 ~~scholarship~~)) board, include soliciting funds and setting annual fund-
4 raising goals. The program administrator shall be paid an
5 administrative fee as determined by the ((~~opportunity-scholarship~~))
6 board.

7 (2) With respect to the opportunity scholarship program, the
8 program administrator shall:

9 (a) Establish and manage two separate accounts into which to
10 receive grants and contributions from private sources as well as state
11 matching funds, and from which to disburse scholarship funds to
12 participants;

13 (b) Solicit and accept grants and contributions from private
14 sources, via direct payment, pledge agreement, or escrow account, of
15 private sources for deposit into one or both of the two accounts
16 created in this subsection (2)(b) in accordance with this subsection
17 (2)(b):

18 (i) The "scholarship account," whose principal may be invaded, and
19 from which scholarships must be disbursed beginning no later than
20 December 1, 2011, if, by that date, state matching funds in the amount
21 of five million dollars or more have been received. Thereafter,
22 scholarships shall be disbursed on an annual basis beginning no later
23 than May 1, 2012, and every ((~~May~~)) October 1st thereafter;

24 (ii) The "endowment account," from which scholarship moneys may be
25 disbursed from earnings only in years when:

26 (A) The state match has been made into both the scholarship and the
27 endowment account;

28 (B) The state appropriations for the state need grant under RCW
29 28B.92.010 meet or exceed state appropriations for the state need grant
30 made in the 2011-2013 biennium, adjusted for inflation, and eligibility
31 for state need grant recipients is at least seventy percent of state
32 median family income; and

33 (C) The state has demonstrated progress toward the goal of total
34 per-student funding levels, from state appropriations plus tuition and
35 fees, of at least the sixtieth percentile of total per-student funding
36 at similar public institutions of higher education in the global
37 challenge states, as defined, measured, and reported in RCW 28B.15.068.
38 In any year in which the office of financial management reports that

1 the state has not made progress toward this goal, no new scholarships
2 may be awarded. In any year in which the office of financial
3 management reports that the percentile of total per-student funding is
4 less than the sixtieth percentile and at least five percent less than
5 the prior year, pledges of future grants and contributions may, at the
6 request of the donor, be released and grants and contributions already
7 received refunded to the extent that opportunity scholarship awards
8 already made can be fulfilled from the funds remaining in the endowment
9 account. In fulfilling the requirements of this subsection, the office
10 of financial management shall use resources that facilitate measurement
11 and comparisons of the most recently completed academic year. These
12 resources may include, but are not limited to, the data provided in a
13 uniform dashboard format under RCW 28B.77.090 as the statewide public
14 four-year dashboard and academic year reports prepared by the state
15 board for community and technical colleges; ((and))

16 (iii) An amount equal to at least fifty percent of all grants and
17 contributions must be deposited into the scholarship account until such
18 time as twenty million dollars have been deposited into the account,
19 after which time the private donors may designate whether their
20 contributions must be deposited to the scholarship or the endowment
21 account. The ~~((opportunity scholarship))~~ board and the program
22 administrator must work to maximize private sector contributions to
23 both the scholarship account and the endowment account, to maintain a
24 robust scholarship program while simultaneously building the endowment,
25 and to determine the division between the two accounts in the case of
26 undesignated grants and contributions, taking into account the need for
27 a long-term funding mechanism and the short-term needs of families and
28 students in Washington. The first five million dollars in state match,
29 as provided in RCW 28B.145.040, shall be deposited into the scholarship
30 account and thereafter the state match shall be deposited into the two
31 accounts in equal proportion to the private funds deposited in each
32 account; and

33 (iv) Once moneys in the opportunity scholarship match transfer
34 account are subject to an agreement under RCW 28B.145.050(5) and are
35 deposited in the scholarship account or endowment account under this
36 section, the state acts in a fiduciary rather than ownership capacity
37 with regard to those assets. Assets in the scholarship account and

1 endowment account are not considered state money, common cash, or
2 revenue to the state;

3 (c) Provide proof of receipt of grants and contributions from
4 private sources to the ((~~board~~)) council, identifying the amounts
5 received by name of private source and date, and whether the amounts
6 received were deposited into the scholarship or the endowment account;

7 (d) In consultation with the ((~~higher education coordinating~~
8 ~~board~~)) council and the state board for community and technical
9 colleges, make an assessment of the reasonable annual eligible expenses
10 associated with eligible education programs identified by the
11 ((~~opportunity scholarship~~)) board;

12 (e) Determine the dollar difference between tuition fees charged by
13 institutions of higher education in the 2008-09 academic year and the
14 academic year for which an opportunity scholarship is being
15 distributed;

16 (f) Develop and implement an application, selection, and
17 notification process for awarding opportunity scholarships;

18 (g) Determine the annual amount of the opportunity scholarship for
19 each selected participant. The annual amount shall be at least one
20 thousand dollars or the amount determined under (e) of this subsection,
21 but may be increased on an income-based, sliding scale basis up to the
22 amount necessary to cover all reasonable annual eligible expenses as
23 assessed pursuant to (d) of this subsection, or to encourage
24 participation in baccalaureate degree programs identified by the
25 ((~~opportunity scholarship~~)) board;

26 (h) Distribute scholarship funds to selected participants. Once
27 awarded, and to the extent funds are available for distribution, an
28 opportunity scholarship shall be automatically renewed until the
29 participant withdraws from or is no longer attending the program,
30 completes the program, or has taken the credit or clock hour equivalent
31 of one hundred twenty-five percent of the published length of time of
32 the participant's program, whichever occurs first, and as long as the
33 participant annually submits documentation of filing both a free
34 application for federal student aid and for available federal education
35 tax credits, including but not limited to the American opportunity tax
36 credit; and

37 (i) Notify institutions of scholarship recipients who will attend

1 their institutions and inform them of the terms of the students'
2 eligibility.

3 (3) With respect to the opportunity expansion program, the program
4 administrator shall:

5 (a) Assist the (~~opportunity scholarship~~) board in developing and
6 implementing an application, selection, and notification process for
7 making opportunity expansion awards; and

8 (b) Solicit and accept grants and contributions from private
9 sources for opportunity expansion awards.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.145
11 RCW to read as follows:

12 (1) The board may elect to have the state investment board invest
13 the funds in the scholarship account and endowment account described
14 under RCW 28B.145.030(2)(b). If the board so elects, the state
15 investment board has the full power to invest, reinvest, manage,
16 contract, sell, or exchange investment money in the two accounts. All
17 investment and operating costs associated with the investment of money
18 shall be paid under RCW 43.33A.160 and 43.84.160. With the exception
19 of these expenses, the earnings from the investment of the money shall
20 be retained by the accounts.

21 (2) All investments made by the state investment board shall be
22 made with the exercise of that degree of judgment and care under RCW
23 43.33A.140 and the investment policy established by the state
24 investment board.

25 (3) As deemed appropriate by the state investment board, money in
26 the scholarship and endowment accounts may be commingled for investment
27 with other funds subject to investment by the state investment board.

28 (4) Members of the state investment board shall not be considered
29 an insurer of the funds or assets and are not liable for any action or
30 inaction.

31 (5) Members of the state investment board are not liable to the
32 state, to the fund, or to any other person as a result of their
33 activities as members, whether ministerial or discretionary, except for
34 willful dishonesty or intentional violations of law. The state
35 investment board in its discretion may purchase liability insurance for
36 members.

1 (6) The authority to establish all policies relating to the
2 scholarship account and the endowment account, other than the
3 investment policies as provided in subsections (1) through (3) of this
4 section, resides with the board and program administrator acting in
5 accordance with the principles set forth in this chapter. With the
6 exception of expenses of the state investment board in subsection (1)
7 of this section, disbursements from the scholarship account and
8 endowment account shall be made only on the authorization of the
9 opportunity scholarship board or its designee, and moneys in the
10 accounts may be spent only for the purposes specified in this chapter.

11 (7) The state investment board shall routinely consult and
12 communicate with the board on the investment policy, earnings of the
13 accounts, and related needs of the program.

14 **Sec. 5.** RCW 28B.145.050 and 2011 1st sp.s. c 13 s 6 are each
15 amended to read as follows:

16 (1) The opportunity scholarship match transfer account is created
17 in the custody of the state treasurer as a nonappropriated account to
18 be used solely and exclusively for the opportunity scholarship program
19 created in RCW 28B.145.040. The purpose of the account is to provide
20 matching funds for the opportunity scholarship program.

21 (2) Revenues to the account shall consist of appropriations by the
22 legislature into the account and any gifts, grants, or donations
23 received by the executive director of the (~~board~~) council for this
24 purpose.

25 (3) No expenditures from the account may be made except upon
26 receipt of proof, by the executive director of the (~~board~~) council
27 from the program administrator, of private contributions to the
28 opportunity scholarship program. Expenditures, in the form of matching
29 funds, may not exceed the total amount of private contributions.

30 (4) Only the executive director of the (~~board~~) council or the
31 executive director's designee may authorize expenditures from the
32 opportunity scholarship match transfer account. Such authorization
33 must be made as soon as practicable following receipt of proof as
34 required under subsection (3) of this section.

35 (5) The council shall enter into an appropriate agreement with the
36 program administrator to demonstrate exchange of consideration for the
37 matching funds.

1 **Sec. 6.** RCW 28B.145.060 and 2013 c 39 s 14 are each amended to
2 read as follows:

3 (1) The opportunity expansion program is established.

4 (2) The ((~~opportunity scholarship~~)) board shall select institutions
5 of higher education to receive opportunity expansion awards. In so
6 doing, the ((~~opportunity scholarship~~)) board must:

7 (a) Solicit, receive, and evaluate proposals from institutions of
8 higher education that are designed to directly increase the number of
9 baccalaureate degrees produced in high employer demand and other
10 programs of study, and that include annual numerical targets for the
11 number of such degrees, with a strong emphasis on serving students who
12 received their high school diploma or high school equivalency
13 certificate as provided in RCW 28B.50.536 in Washington or are adult
14 Washington residents who are returning to school to gain a
15 baccalaureate degree;

16 (b) Develop criteria for evaluating proposals and awarding funds to
17 the proposals deemed most likely to increase the number of
18 baccalaureate degrees and degrees produced in high employer demand and
19 other programs of study;

20 (c) Give priority to proposals that include a partnership between
21 public and private partnership entities that leverage additional
22 private funds;

23 (d) Give priority to proposals that are innovative, efficient, and
24 cost-effective, given the nature and cost of the particular program of
25 study;

26 (e) Consult and operate in consultation with existing higher
27 education stakeholders, including but not limited to: Faculty, labor,
28 student organizations, and relevant higher education agencies; and

29 (f) Determine which proposals to improve and accelerate the
30 production of baccalaureate degrees in high employer demand and other
31 programs of study will receive opportunity expansion awards for the
32 following state fiscal year, notify the state treasurer, and announce
33 the awards.

34 (3) The state treasurer, at the direction of the ((~~opportunity~~
35 ~~scholarship~~)) board, must distribute the funds that have been awarded
36 to the institutions of higher education from the opportunity expansion
37 account.

1 (4) Institutions of higher education receiving awards under this
2 section may not supplant existing general fund state revenues with
3 opportunity expansion awards.

4 (5) Annually, the office of financial management shall report to
5 the ((~~opportunity scholarship~~)) board, the governor, and the relevant
6 committees of the legislature regarding the percentage of Washington
7 households with incomes in the middle-income bracket or higher. For
8 purposes of this section, "middle-income bracket" means household
9 incomes between two hundred and five hundred percent of the 2010
10 federal poverty level, as determined by the United States department of
11 health and human services for a family of four, adjusted annually for
12 inflation.

13 (6) Annually, the ((~~student achievement~~)) council must report to
14 the ((~~opportunity scholarship~~)) board, the governor, and the relevant
15 committees of the legislature regarding the increase in the number of
16 degrees in high employer demand and other programs of study awarded by
17 institutions of higher education over the average of the preceding ten
18 academic years.

19 (7) In its comprehensive plan, the workforce training and education
20 coordinating board shall include specific strategies to reach the goal
21 of increasing the percentage of Washington households living in the
22 middle-income bracket or higher, as calculated by the office of
23 financial management and developed by the agency or education
24 institution that will lead the strategy.

25 **Sec. 7.** RCW 28B.145.070 and 2011 1st sp.s. c 13 s 8 are each
26 amended to read as follows:

27 (1) ((~~By December 1, 2012, and~~)) Annually each December 1st
28 ((~~thereafter~~)), the ((~~opportunity scholarship~~)) board, together with
29 the program administrator, shall report to the ((~~board~~)) council, the
30 governor, and the appropriate committees of the legislature regarding
31 the opportunity scholarship and opportunity expansion programs,
32 including but not limited to:

33 (a) Which education programs the ((~~opportunity scholarship~~)) board
34 determined were eligible for purposes of the opportunity scholarship;

35 (b) The number of applicants for the opportunity scholarship,
36 disaggregated, to the extent possible, by race, ethnicity, gender,
37 county of origin, age, and median family income;

1 (c) The number of participants in the opportunity scholarship
2 program, disaggregated, to the extent possible, by race, ethnicity,
3 gender, county of origin, age, and median family income;

4 (d) The number and amount of the scholarships actually awarded, and
5 whether the scholarships were paid from the scholarship account or the
6 endowment account;

7 (e) The institutions and eligible education programs in which
8 opportunity scholarship participants enrolled, together with data
9 regarding participants' completion and graduation;

10 (f) The total amount of private contributions and state match
11 moneys received for the opportunity scholarship program, how the funds
12 were distributed between the scholarship and endowment accounts, the
13 interest or other earnings on the accounts, and the amount of any
14 administrative fee paid to the program administrator; and

15 (g) Identification of the programs the (~~opportunity scholarship~~)
16 board selected to receive opportunity expansion awards and the amount
17 of such awards.

18 (2) In the next succeeding legislative session following receipt of
19 a report required under subsection (1) of this section, the appropriate
20 committees of the legislature shall review the report and consider
21 whether any legislative action is necessary with respect to either the
22 opportunity scholarship program or the opportunity expansion program,
23 including but not limited to consideration of whether any legislative
24 action is necessary with respect to the nature and level of focus on
25 high employer demand fields and the number and amount of scholarships."

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26 On page 1, line 1 of the title, after "program;" strike the
27 remainder of the title and insert "amending RCW 28B.145.010,
28 28B.145.020, 28B.145.030, 28B.145.050, 28B.145.060, and 28B.145.070;
29 and adding a new section to chapter 28B.145 RCW."

EFFECT: The definition of the "Board" is changed to mean the Opportunity Scholarship Board (OSB), rather than the Higher Education Coordinating Board or its successor. A definition for "Council" is added, which means the Washington Student Achievement Council. Using the new definitions, the references to the "Board" and the "Council" are corrected and updated throughout the chapter on the OSB.

--- END ---