
ENGROSSED SUBSTITUTE HOUSE BILL 2323

State of Washington

64th Legislature

2016 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Kilduff, Walsh, Stanford, Kagi, Robinson, McBride, Bergquist, Jinkins, and Pollet)

READ FIRST TIME 01/21/16.

1 AN ACT Relating to the creation of the Washington achieving a
2 better life experience program; amending RCW 43.33A.190; reenacting
3 and amending RCW 43.79A.040; adding new sections to chapter 43.330
4 RCW; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330
7 RCW to read as follows:

8 The definitions in this section apply throughout sections 2
9 through 6 of this act unless the context clearly indicates otherwise.

10 (1) "Eligible individual" means an individual eligible for the
11 Washington achieving a better life experience program pursuant to
12 section 529A of the federal internal revenue code of 1986, as
13 amended.

14 (2) "Governing board" means the Washington achieving a better
15 life experience program governing board in section 4 of this act.

16 (3) "Individual Washington achieving a better life experience
17 program account" means an account established by or for an eligible
18 individual and owned by the eligible individual pursuant to the
19 Washington achieving a better life experience program. Any moneys
20 placed in these accounts or achieving a better life experience
21 program accounts established in other states shall not be counted as

1 assets for purposes of state or local means tested program
2 eligibility or levels of state means tested program eligibility.

3 (4) "Washington achieving a better life experience program" means
4 a savings or investment program that establishes individual
5 Washington achieving a better life experience program accounts
6 pursuant to section 529A of the federal internal revenue code of
7 1986, as amended.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330
9 RCW to read as follows:

10 (1) The Washington achieving a better life experience program
11 account is created in the custody of the state treasurer.
12 Expenditures from the account may be used only for the purposes of
13 the Washington achieving a better life experience program established
14 under this chapter, except for expenses of the state investment board
15 and the state treasurer as specified in this section. The account
16 must be a discrete nontreasury account retaining its interest
17 earnings in accordance with RCW 43.79A.040.

18 (2) The account must be self-sustaining and consist of payments
19 received from contributors to individual Washington achieving a
20 better life experience program accounts. All payments contributed to
21 the Washington achieving a better life experience program are held in
22 trust and must be deposited in the account. With the exception of
23 investment and operating costs associated with the investment of
24 money paid under RCW 43.08.190, 43.33A.160, and 43.84.160, the
25 account must be credited with all investment income earned by the
26 account. Disbursements from the account are exempt from
27 appropriations and the allotment provisions of chapter 43.88 RCW. An
28 appropriation is not required for expenditures.

29 (3) The assets of the account may be spent without appropriation
30 for the purpose of making payments to individual Washington achieving
31 a better life experience program account holders. Only the Washington
32 achieving a better life experience governing board or the board's
33 designee may authorize expenditures from the account.

34 (4) With regard to the assets of the account, the state acts in a
35 fiduciary, not ownership, capacity. Therefore, the assets of the
36 account are not considered state money, common cash, or revenue to
37 the state.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330

2 RCW to read as follows:

3 (1) The governing board may elect to have the state investment
4 board invest the money in the Washington achieving a better life
5 experience program account. If the governing board so elects, the
6 state investment board created in RCW 43.33A.020 has the full power
7 to invest, reinvest, manage, contract, sell, or exchange investment
8 money in the Washington achieving a better life experience program
9 account. All investment and operating costs associated with the
10 investment of money by the state investment board must be paid
11 pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these
12 expenses, the earnings from the investment of the money must be
13 retained by the account.

14 (2)(a) After consultation with the governing board, the state
15 investment board may elect to invest any self-directed accounts
16 associated with the Washington achieving a better life experience
17 program. The state investment board has full authority to invest all
18 self-directed investment moneys in accordance with this section and
19 RCW 43.84.150. In carrying out this authority the state investment
20 board, after consultation with the governing board regarding any
21 recommendations, shall provide a set of options for eligible
22 individuals to choose from for self-directed investment. Any self-
23 directed investment options provided must comply with section 529A of
24 the federal internal revenue code of 1986, as amended.

25 (b) All investment and operating costs of the state investment
26 board associated with making self-directed investments must be paid
27 by eligible individuals and recovered under procedures agreed to by
28 the governing board and the state investment board pursuant to the
29 principles set forth in RCW 43.33A.160. All other expenses caused by
30 self-directed investments must be paid by the eligible individual in
31 accordance with rules established by the governing board. With the
32 exception of these expenses, all earnings from self-directed
33 investments shall accrue to the eligible individual's Washington
34 achieving a better life experience program account.

35 (c)(i) The governing board shall keep or cause to be kept full
36 and adequate accounts and records of each eligible individual
37 Washington achieving a better life experience program account.

38 (ii) The governing board shall account for and report on the
39 investment of self-directed assets or may enter into an agreement

1 with the state investment board for such accounting and reporting
2 under this chapter.

3 (iii) The governing board's duties related to eligible individual
4 Washington achieving a better life experience program accounts
5 include conducting the activities of trade instruction, settlement
6 activities, and direction of cash movement and related wire transfers
7 with the custodian bank and outside investment firms.

8 (iv) The governing board has sole responsibility for contracting
9 with any recordkeepers for individual Washington achieving a better
10 life experience program accounts and shall manage the performance of
11 recordkeepers under those contracts.

12 (v) The state investment board has sole responsibility for
13 contracting with outside investment firms to provide investment
14 management for the individual Washington achieving a better life
15 experience program accounts and shall manage the performance of
16 investment managers under those contracts.

17 (vi) The department has sole responsibility for contracting with
18 any recordkeepers for individual participant accounts and shall
19 manage the performance of recordkeepers under those contracts.

20 (d) The state treasurer shall designate and define the terms of
21 engagement for the custodial banks.

22 (3) All investments made by the state investment board must be
23 made with the exercise of that degree of judgment and care pursuant
24 to RCW 43.33A.140 and the investment policy established by the state
25 investment board.

26 (4) As deemed appropriate by the state investment board, money in
27 the account may be commingled for investment with other funds subject
28 to investment by the state investment board.

29 (5) The authority to establish all policies relating to the
30 account, other than the investment policies, resides with the
31 governing board acting to implement, design, and manage the
32 Washington achieving a better life experience savings program that
33 allows eligible individuals to create and maintain savings accounts.
34 The moneys in the account may be spent only for the purposes of the
35 Washington achieving a better life experience program.

36 (6) The state investment board shall routinely consult and
37 communicate with the governing board on the investment policy,
38 earnings of the account, and related needs of the program.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330
2 RCW to read as follows:

3 The Washington achieving a better life experience program is
4 established and the governing board is authorized to design and
5 administer the Washington achieving a better life experience program
6 in the best interests of eligible individuals. To the extent funds
7 are appropriated for this purpose, the director of the department
8 shall provide staff and administrative support to the governing
9 board. The department shall consult with the governing board
10 regarding the staffing and administrative support needs before
11 selecting any staff pursuant to this section. To the extent
12 practicable, the Washington achieving a better life experience
13 program must be colocated with the developmental disabilities
14 endowment governing board established under this chapter.

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

17 (a) The state treasurer or his or her designee;

18 (b) The program director for the committee on advanced tuition
19 payment established in RCW 28B.95.020;

20 (c) The director of the office of financial management or his or
21 her designee; and

22 (d) Four members with demonstrated financial, legal, or
23 disability program experience, appointed by the governor.

24 (2) The board shall select the chair of the board from among the
25 seven board members identified in subsection (1) of this section.

26 (3) Members of the board who are appointed by the governor shall
27 serve four-year terms and may be appointed for successive four-year
28 terms at the discretion of the governor. The governor may stagger the
29 terms of the appointed members.

30 (4) Members of the board must be compensated for their service
31 under RCW 43.03.240 and must be reimbursed for travel expenses as
32 provided in RCW 43.03.050 and 43.03.060.

33 (5) The board shall meet periodically as specified by the chair,
34 or a majority of the board, and may allow members to participate in
35 meetings remotely.

36 (6) The board may appoint advisory committees to support the
37 design or administration of the Washington achieving a better life
38 experience program. Individuals serving on advisory committees must
39 serve staggered terms and may be reimbursed for travel expenses as

1 provided in RCW 43.03.050 and 43.03.060, but may not be compensated
2 for their service.

3 (7) The board may execute interagency agreements that authorize
4 other state agencies such as the committee on advanced tuition
5 payment established in RCW 28B.95.020 to perform administrative
6 functions necessary to carry out the Washington achieving a better
7 life experience program.

8 (8) Members of the governing board and the state investment board
9 shall not be considered an insurer of the funds or assets of the
10 Washington achieving a better life experience program account or the
11 individual program accounts. Neither of these two boards are liable
12 for the action or inaction of the other.

13 (9) Members of the governing board and the state investment board
14 are not liable to the state, to the fund, or to any other person as a
15 result of their activities as members, whether ministerial or
16 discretionary, except for willful dishonesty or intentional
17 violations of law. The department and the state investment board may
18 purchase liability insurance for members.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.330
20 RCW to read as follows:

21 (1) The Washington achieving a better life experience program
22 governing board is authorized to design, administer, manage, promote,
23 and market the Washington achieving a better life experience program.
24 The governing board is further authorized to contract with other
25 organizations to administer, manage, promote, or market the
26 Washington achieving a better life experience program. This program
27 must allow for the creation of savings or investment accounts for
28 eligible individuals with disabilities and the funds must be
29 invested.

30 (2) The governing board may consult with the office of the state
31 treasurer, the department of social and health services, and the
32 state investment board in implementing the Washington achieving a
33 better life experience program. The governing board is authorized to
34 formulate and adopt any policies and rules necessary to implement and
35 operate the Washington achieving a better life experience program
36 consistent with this act. The governing board is further authorized
37 to establish a reasonable fee structure for Washington achieving a
38 better life experience program account holders.

1 (3) The governing board shall take any action required to keep
2 the program in compliance with requirements of this chapter and as
3 required to qualify as a "qualified ABLE program" as defined in
4 section 529A of the federal internal revenue code of 1986, as
5 amended, or any rules and regulations adopted by the secretary of the
6 United States treasury pursuant to that act.

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.330
8 RCW to read as follows:

9 (1) The governing board shall implement the Washington achieving
10 a better life experience program by July 1, 2017. The governing board
11 must submit a semiannual report to the appropriate committees of the
12 legislature describing the progress toward program implementation.
13 These reports must also include any recommendations regarding
14 legislative changes that are necessary to implement the program and
15 an estimate regarding the timeline for implementing the program.

16 (2) This section expires July 1, 2018.

17 **Sec. 7.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are
18 each reenacted and amended to read as follows:

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

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

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

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

1 (b) The following accounts and funds must receive their
2 proportionate share of earnings based upon each account's or fund's
3 average daily balance for the period: The Washington promise
4 scholarship account, the Washington advanced college tuition payment
5 program account, the accessible communities account, the Washington
6 achieving a better life experience program account, the community and
7 technical college innovation account, the agricultural local fund,
8 the American Indian scholarship endowment fund, the foster care
9 scholarship endowment fund, the foster care endowed scholarship trust
10 fund, the contract harvesting revolving account, the Washington state
11 combined fund drive account, the commemorative works account, the
12 county enhanced 911 excise tax account, the toll collection account,
13 the developmental disabilities endowment trust fund, the energy
14 account, the fair fund, the family leave insurance account, the food
15 animal veterinarian conditional scholarship account, the fruit and
16 vegetable inspection account, the future teachers conditional
17 scholarship account, the game farm alternative account, the GET ready
18 for math and science scholarship account, the Washington global
19 health technologies and product development account, the grain
20 inspection revolving fund, the industrial insurance rainy day fund,
21 the juvenile accountability incentive account, the law enforcement
22 officers' and firefighters' plan 2 expense fund, the local tourism
23 promotion account, the multiagency permitting team account, the
24 pilotage account, the produce railcar pool account, the regional
25 transportation investment district account, the rural rehabilitation
26 account, the stadium and exhibition center account, the youth
27 athletic facility account, the self-insurance revolving fund, the
28 children's trust fund, the Washington horse racing commission
29 Washington bred owners' bonus fund and breeder awards account, the
30 Washington horse racing commission class C purse fund account, the
31 individual development account program account, the Washington horse
32 racing commission operating account, the life sciences discovery
33 fund, the Washington state heritage center account, the reduced
34 cigarette ignition propensity account, the center for childhood
35 deafness and hearing loss account, the school for the blind account,
36 the Millersylvania park trust fund, the public employees' and
37 retirees' insurance reserve fund, and the radiation perpetual
38 maintenance fund.

39 (c) The following accounts and funds must receive eighty percent
40 of their proportionate share of earnings based upon each account's or

1 fund's average daily balance for the period: The advanced right-of-
2 way revolving fund, the advanced environmental mitigation revolving
3 account, the federal narcotics asset forfeitures account, the high
4 occupancy vehicle account, the local rail service assistance account,
5 and the miscellaneous transportation programs account.

6 (d) Any state agency that has independent authority over accounts
7 or funds not statutorily required to be held in the custody of the
8 state treasurer that deposits funds into a fund or account in the
9 custody of the state treasurer pursuant to an agreement with the
10 office of the state treasurer shall receive its proportionate share
11 of earnings based upon each account's or fund's average daily balance
12 for the period.

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

16 **Sec. 8.** RCW 43.33A.190 and 2000 c 247 s 701 are each amended to
17 read as follows:

18 Pursuant to RCW 41.34.130 and section 3 of this act, the state
19 investment board shall invest all self-directed investment moneys
20 under teachers' retirement system plan 3, the school employees'
21 retirement system plan 3, ~~((and))~~ the public employees' retirement
22 system plan 3, and the Washington achieving a better life experience
23 program with full power to establish investment policy, develop
24 investment options, and manage self-directed investment funds.

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