
HOUSE BILL 2679

State of Washington

64th Legislature

2016 Regular Session

By Representatives Morris and Stanford

Read first time 01/18/16. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to consolidating the duties, powers, missions,
2 functions, and funds of the life sciences discovery fund authority
3 and the cancer research endowment authority within a center of
4 excellence for life sciences and cancer research; amending RCW
5 43.348.040, 43.348.050, 43.348.080, 43.350.050, and 43.350.070;
6 adding a new chapter to Title 43 RCW; recodifying RCW 43.348.040,
7 43.348.050, 43.348.080, 43.350.020, 43.350.030, 43.350.040, and
8 43.350.060; repealing RCW 43.348.005, 43.348.010, 43.348.020,
9 43.348.030, 43.348.060, 43.348.070, 43.348.900, and 43.350.010; and
10 declaring an emergency.

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

12 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares the
13 following:

14 (a) Promoting the health of state residents is a fundamental
15 purpose of state government, and action to promote life sciences and
16 cancer research and prevention is a governmental function consistent
17 with this fundamental public purpose;

18 (b) Sustained investment in life sciences and cancer research is
19 critical to improving the quality and delivery of health care for the
20 people of Washington; and

1 (c) Washington has an existing infrastructure of world-class life
2 sciences and cancer research and care centers. Action to promote this
3 infrastructure enhances the competitive position of the state.

4 (2) It is the intent of the legislature to create a center of
5 excellence for life sciences and cancer research to:

6 (a) Optimize the use of public funds by aligning and
7 consolidating the missions, powers, duties, and functions of the life
8 sciences discovery fund authority and the cancer research endowment
9 authority within a single center of excellence devoted to life
10 sciences and cancer research;

11 (b) Capitalize on ten years of expertise and positive outcomes
12 developed by the life sciences discovery fund authority and its board
13 and achieve value migration by transferring to the life sciences
14 discovery fund authority and its board certain powers and authority
15 vested in the cancer research endowment authority and its board by
16 chapter 34, Laws of 2015; and

17 (c) Modify the cancer research endowment program to improve its
18 effectiveness in facilitating investment of cancer research dollars
19 in the state.

20 NEW SECTION. **Sec. 2.** The definitions in this section apply
21 throughout this chapter unless the context clearly requires
22 otherwise.

23 (1) "Authority" means the life sciences discovery fund authority
24 created in RCW 43.350.020 (as recodified by this act).

25 (2) "Board" means the governing board of trustees of the
26 authority.

27 (3) "Cancer" means a group of diseases involving unregulated cell
28 growth.

29 (4) "Cancer patient advocacy organizations" means groups with
30 offices in the state that promote cancer prevention and advocate on
31 behalf of cancer patients.

32 (5) "Cancer research" means advanced and applied research and
33 development relating to the causes, prevention, and diagnosis of
34 cancer and care of cancer patients including the development of
35 tests, genetic analysis, medications, processes, services, and
36 technologies to optimize cancer therapies and their manufacture and
37 commercialization and includes the costs of recruiting scientists and
38 establishing and equipping research facilities.

39 (6) "CARE fund" means the fund created in section 5 of this act.

1 (7) "Center" means the center of excellence for life sciences and
2 cancer research.

3 (8) "Commercial entity" means a for-profit entity located in the
4 state that develops, manufactures, or sells goods or services
5 relating to cancer prevention or care.

6 (9) "Committee" means an independent expert scientific review and
7 advisory committee established under RCW 43.348.050 (as recodified by
8 this act).

9 (10) "Contribution agreement" means any agreement authorized
10 under this chapter in which a private entity or a public entity other
11 than the state agrees to provide to the authority contributions for
12 the purpose of promoting life sciences research or cancer research,
13 prevention, or care.

14 (11) "Costs" means the costs and expenses associated with the
15 conduct of life sciences research and cancer research including, but
16 not limited to, the cost of recruiting and compensating personnel,
17 securing and financing facilities and equipment, and conducting
18 clinical trials.

19 (12) "Health care delivery system" means hospitals and clinics
20 providing care to patients in the state.

21 (13) "Life sciences research" means advanced and applied research
22 and development intended to improve human health, including
23 scientific study of the developing brain and human learning and
24 development, and other areas of scientific research and development
25 vital to the state's economy.

26 (14) "Master settlement agreement" means the national master
27 settlement agreement and related documents entered into on November
28 23, 1998, by the state and the four principal United States tobacco
29 product manufacturers, as amended and supplemented, for the
30 settlement of litigation brought by the state against the tobacco
31 product manufacturers.

32 (15) "Program" means the cancer research program.

33 (16) "Public funds" means any funds received or controlled by the
34 state of Washington or any agency or political subdivision thereof
35 including, but not limited to, funds derived from federal, state, or
36 local taxes, gifts or grants from any source, public or private,
37 federal grants or payments, or intergovernmental transfers.

38 (17) "State agreement" means the agreement authorized under this
39 chapter in which the state provides to the authority the strategic
40 contribution payments required to be made by tobacco product

1 manufacturers to the state and the state's rights to receive such
2 payments, pursuant to the master settlement agreement, for the
3 purpose of promoting life sciences research.

4 (18) "Strategic contribution payments" means the payments
5 designated as such under the master settlement agreement.

6 **Sec. 3.** RCW 43.348.040 and 2015 3rd sp.s. c 34 s 5 are each
7 amended to read as follows:

8 (1) The center of excellence for life sciences and cancer
9 research is created to promote sustained investment in life sciences
10 and cancer research.

11 (2) The powers of the center are vested in and shall be exercised
12 by the board of the authority.

13 (3) The cancer research (~~endowment~~) program is created within
14 the center. The purpose of the program is to make grants to public
15 and private entities, including commercial entities, to fund or
16 reimburse the entities pursuant to agreement for the promotion of
17 cancer research to be conducted in the state.

18 (4) The authority (~~is to~~) must oversee and guide the program,
19 including the solicitation, selection, and award of grants.

20 (~~(+2)~~) (5) The board must develop a plan for the allocation of
21 projected amounts in the cancer research fund and the CARE fund,
22 which it must update annually, following at least one annual public
23 hearing. The plan must provide for appropriate funding continuity and
24 take into account the projected speed at which revenues will be
25 available and amounts that can be spent during the plan period.

26 (~~(+3)~~) (6) The authority must solicit requests for grant funding
27 and evaluate the requests by reference to factors such as: (a) The
28 quality of the proposed research or program; (b) its potential to
29 improve health outcomes of persons with cancer, with particular
30 attention to the likelihood that it will also lower health care
31 costs, substitute for a more costly diagnostic or treatment modality,
32 or offer a breakthrough treatment for a particular cancer or cancer-
33 related condition or disease; (c) its potential for leveraging
34 additional funding; (d) its potential to provide additional health
35 care benefits or benefit other human diseases or conditions; (e) its
36 potential to stimulate life science, health care, and biomedical
37 employment in the state; (f) the geographic diversity of the grantees
38 within Washington; (g) evidence of potential royalty, sales, or
39 licensing revenue, or other commercialization-related revenue and

1 contractual means to recapture such income for purposes of this
2 chapter; and (h) evidence of public and private collaboration.

3 ~~((+4))~~ (7) The authority may not award a grant for a proposal
4 that was not recommended by an independent expert scientific review
5 and advisory committee under RCW 43.348.050 (as recodified by this
6 act).

7 ~~((+5))~~ (8) The authority must distribute cancer research funds
8 and CARE funds to selected entities through grant agreements that set
9 forth the terms and conditions of the grant, which must include, but
10 not be limited to: (a) Deliverables to be provided by the recipient
11 pursuant to the grant; (b) the circumstances under which the grant
12 amount would be required to be repaid or the circumstances under
13 which royalty, sales, or licensing revenue, or other
14 commercialization-related revenue would be required to be shared; and
15 (c) indemnification, dispute resolution, and any other terms and
16 conditions as are customary for grant agreements or are deemed
17 reasonable by the board. The authority may negotiate with any grantee
18 the costs associated with performing scientific activities funded by
19 grants.

20 (9) The authority must issue an annual report to the public that
21 sets forth its activities with respect to the cancer research fund
22 and the CARE fund, including grants awarded, grant-funded work in
23 progress, research accomplishments, prevention, and care activities,
24 and future program directions with respect to cancer research,
25 prevention, and care. Each annual report regarding activities of the
26 cancer research ~~((endowment))~~ program, cancer research fund, and CARE
27 fund must include, but not be limited to, the following: The number
28 and dollar amounts of grants; the grantees for the prior year; the
29 authority's administrative expenses; an assessment of the
30 availability of funding for cancer research, prevention, and care
31 from sources other than the authority; a summary of research,
32 prevention, and care-related findings, including promising new areas
33 for investment; and a report on the benefits to Washington of its
34 programs to date.

35 ~~((+6))~~ (10) The authority's first annual report under this
36 section must include a proposed operating plan for the design,
37 implementation, and administration of ~~((an—endowment—program~~
38 ~~supporting the purposes of the authority and))~~ the program.

1 ((+7)) (11) The authority must adopt policies to ensure that all
2 potential conflicts of interest have been disclosed and that all
3 conflicts of interest have been eliminated or mitigated.

4 ((+8)) (12) The authority must establish standards to ensure
5 that recipients of grants for cancer research, prevention, or care
6 purchase goods and services from Washington suppliers to the extent
7 reasonably possible.

8 **Sec. 4.** RCW 43.348.050 and 2015 3rd sp.s. c 34 s 6 are each
9 amended to read as follows:

10 (1) In addition to any advisory boards the authority determines
11 to establish, the authority must establish one or more independent
12 expert scientific review and advisory committees for the purposes of
13 evaluating grant proposals for cancer research and recommending
14 grants to be made from the cancer research fund or the CARE fund;
15 advising the authority during the development and review of its
16 strategic plans for cancer research; and advising the authority on
17 scientific and other matters in furtherance of the cancer research
18 purposes of (~~chapter 34, Laws of 2015 3rd sp. sess~~) section 1 of
19 this act.

20 (2) Each independent expert scientific review and advisory
21 committee must consist of individuals with nationally recognized
22 expertise in the scientific, clinical, ethical, commercial, and
23 regulatory aspects of cancer research, prevention, and care. The
24 board must appoint the members of the committee. Preliminary review
25 of grant proposals may be made by a panel of such committee or an
26 independent contractor chosen by the board upon recommendation of the
27 committee, but all recommendations for grants to be made from the
28 cancer research fund or the CARE fund may be made only upon majority
29 vote of the committee.

30 NEW SECTION. **Sec. 5.** (1) The authority may establish a fund as
31 a separate private account outside of the treasury, to be known as
32 the CARE fund. Grants and contributions from nonstate public and
33 private sources may be deposited into the CARE fund. Funds from the
34 CARE fund may only be disbursed for cancer research grants,
35 consistent with the procedures outlined in RCW 43.348.040 (as
36 recodified by this act). Moneys in the CARE fund are not considered
37 state money, common cash, or revenue to the state.

1 (2) The authority must manage the CARE fund, its obligations, and
2 its investments so as to achieve the maximum possible rate of return
3 on investment.

4 (3) The authority may create additional legal entities and take
5 such action as may be necessary or advisable to enable the CARE fund
6 to accept charitable contributions.

7 **Sec. 6.** RCW 43.348.080 and 2015 3rd sp.s. c 34 s 9 are each
8 amended to read as follows:

9 (1) The cancer research (~~(endowment fund match transfer account)~~)
10 fund is created in the custody of the state treasurer as a
11 nonappropriated account to be used solely and exclusively for the
12 cancer research (~~(endowment)~~) program created in RCW 43.348.040 (as
13 recodified by this act). The purpose of the (~~(account)~~) fund is to
14 provide matching funds (~~(for the CARE fund)~~) for cancer research
15 grants and contributions pledged by public and private sources to
16 public and private entities, including commercial entities, and
17 administrative costs.

18 (2) Revenues to the (~~(account)~~) fund must consist of deposits
19 into the account, legislative appropriations, and any gifts, grants,
20 or donations received by the (~~(department)~~) authority for this
21 purpose.

22 (3) The legislature must appropriate (~~(a state match)~~) to the
23 fund, up to a maximum of ten million dollars annually, beginning July
24 1, 2016, and each July 1st following the end of the fiscal year, from
25 tax collections and penalties generated from enforcement of state
26 taxes on cigarettes and other tobacco products by the state liquor
27 and cannabis board or other federal, state or local law or tax
28 enforcement agency, as determined by the department of revenue. Tax
29 collections include any cigarette tax, other tobacco product tax, and
30 retail sales and use tax.

31 (4) Each expenditure((s)), in the form of matching funds, from
32 the account may be made only upon the authority's receipt of proof
33 from the (~~(program administrator of nonstate or private contributions~~
34 to the CARE fund for the cancer research endowment program.
35 Expenditures, in the form of matching funds, may not exceed the total
36 amount of nonstate or private contributions)) prospective grantee of
37 the program that the grantee has received a commitment of public or
38 private contributions equal to or exceeding the expenditure, or the
39 authority's commitment of equal matching funds from the CARE fund.

1 (5) Only the (~~director of the department or the director's~~)
2 board or the board's designee may authorize expenditures from the
3 cancer research (~~endowment fund match transfer account~~) fund. Such
4 authorization must be made as soon as practicable following receipt
5 of proof as required under subsection (4) of this section.

6 (~~(6) The department must enter into an appropriate agreement
7 with the program administrator to demonstrate exchange of
8 consideration for the matching funds.~~)

9 **Sec. 7.** RCW 43.350.050 and 2005 c 424 s 6 are each amended to
10 read as follows:

11 Members of the board and persons acting on behalf of the
12 authority or the center, while acting within the scope of their
13 employment or agency, are not subject to personal liability resulting
14 from carrying out the powers and duties conferred on them under this
15 chapter. Neither the state nor the authority or center is liable for
16 any loss, damage, harm, or other consequence resulting directly or
17 indirectly from grants made by the authority or by any life sciences
18 or cancer research funded by such grants.

19 **Sec. 8.** RCW 43.350.070 and 2011 c 5 s 916 are each amended to
20 read as follows:

21 The life sciences discovery fund is created in the custody of the
22 state treasurer. Only the board or the board's designee may authorize
23 expenditures from the fund. Expenditures from the fund may be made
24 only for purposes of this chapter. Except as provided in RCW
25 43.348.080 (as recodified by this act), administrative expenses of
26 the authority, including staff support, may be paid only from the
27 fund. Revenues to the fund consist of transfers made by the
28 legislature from strategic contribution payments deposited in the
29 tobacco settlement account under RCW 43.79.480, moneys received
30 pursuant to contribution agreements entered into pursuant to RCW
31 43.350.030, moneys received from gifts, grants, and bequests, and
32 interest earned on the fund. (~~During the 2009-2011 fiscal biennium,
33 the legislature may transfer to other state funds or accounts such
34 amounts as represent the excess balance of the life sciences
35 discovery fund.~~)

36 NEW SECTION. **Sec. 9.** The center may develop recommendations to
37 the legislature for a program or process to identify and recruit top

1 graduate students in the fields of life sciences and cancer research
2 to conduct research in Washington state. The center is encouraged to
3 submit such recommendations by December 1, 2016, to the speaker of
4 the house of representatives, the president of the senate, and the
5 committees with jurisdiction over economic development issues.

6 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 43.348.005 (Findings—Intent) and 2015 3rd sp.s. c 34 s 1;

9 (2) RCW 43.348.010 (Definitions) and 2015 3rd sp.s. c 34 s 2;

10 (3) RCW 43.348.020 (Cancer research endowment authority) and 2015
11 3rd sp.s. c 34 s 3;

12 (4) RCW 43.348.030 (Authority—General powers) and 2015 3rd sp.s.
13 c 34 s 4;

14 (5) RCW 43.348.060 (Program administrator—CARE fund—Independent
15 auditor) and 2015 3rd sp.s. c 34 s 7;

16 (6) RCW 43.348.070 (Charitable contributions) and 2015 3rd sp.s.
17 c 34 s 8;

18 (7) RCW 43.348.900 (Expiration of chapter) and 2015 3rd sp.s. c
19 34 s 10; and

20 (8) RCW 43.350.010 (Definitions) and 2005 c 424 s 2.

21 NEW SECTION. **Sec. 11.** RCW 43.348.040, 43.348.050, 43.348.080,
22 43.350.020, 43.350.030, 43.350.040, and 43.350.060 are each
23 recodified as sections in the new chapter created in section 12 of
24 this act.

25 NEW SECTION. **Sec. 12.** Sections 1, 2, 5, and 9 of this act
26 constitute a new chapter in Title 43 RCW.

27 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of
29 the state government and its existing public institutions, and takes
30 effect immediately.

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