
SENATE BILL 5684

State of Washington

65th Legislature

2017 Regular Session

By Senators Palumbo and Wilson

Read first time 02/02/17. Referred to Committee on Higher Education.

1 AN ACT Relating to creating the higher education infrastructure
2 investment program; reenacting and amending RCW 43.79A.040; and
3 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.** The legislature finds that new investments
6 in higher education infrastructure are necessary to support a
7 workforce that aligns with the Washington job market. Despite
8 increases in degree production, there remain acute shortages in high-
9 demand programs of study.

10 It is the intent of the legislature to provide jobs and
11 opportunity by making Washington the place where the world's most
12 productive companies find the world's most talented people. The
13 legislature intends to accomplish this by entering into a public-
14 private partnership with Washington employers to leverage state
15 spending on capital projects in high-demand fields. The aim is to
16 increase the capacity of higher education institutions to provide
17 baccalaureate degrees and other programs in high employer demand
18 areas to meet market demands for a knowledge-based economy while
19 filling middle-income jobs with a sufficient supply of skilled
20 workers.

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

4 (1) "Account" means the higher education infrastructure
5 investment match account created in section 10 of this act.

6 (2) "Board" means the higher education infrastructure investment
7 board created in section 3 of this act.

8 (3) "Contribution agreement" means any agreement authorized under
9 this chapter in which a private entity agrees to provide grants and
10 contributions for the purpose of financing infrastructure projects.

11 (4) "Council" means the student achievement council.

12 (5) "Fund" means the higher education infrastructure investment
13 fund created in section 6 of this act.

14 (6) "Higher education infrastructure investment project" means a
15 capital project contained on the prioritized lists submitted by the
16 council to the office of financial management pursuant to RCW
17 28B.77.070 that benefit high-demand programs of study.

18 (7) "Program" means the higher education infrastructure
19 investment program created in section 5 of this act.

20 (8) "Program administrator" means a person or entity managing
21 grants and soliciting donations for the higher education
22 infrastructure investment program.

23 NEW SECTION. **Sec. 3.** (1) The higher education infrastructure
24 investment board is created. The board consists of eleven members
25 appointed by the governor:

26 (a) Five members must be appointed from foundations or businesses
27 engaged in the industry sectors of aerospace, manufacturing, health
28 care, information technology, engineering, agriculture, or maritime.
29 Once grants, donations, and contributions from private sources have
30 been received in the fund, the governor shall appoint the foundation
31 and business members from a list of nominations from the sources of
32 those funds. However, the governor may request, and the private
33 sector donors shall provide, an additional list or lists from which
34 the governor shall select these members.

35 (b) Of the remaining six members, the governor must consider
36 appointing three members from lists provided by the speaker of the
37 house of representatives and the majority and minority leaders of the
38 senate.

1 (c) The governor must make initial appointments to the board no
2 later than January 1, 2018.

3 (2) The term of a member is four years from the date of his or
4 her appointment except the initial term of two members appointed
5 under subsection (1)(a) of this section and three members appointed
6 under subsection (1)(b) of this section must be two years to create a
7 staggered appointment process. A member may be appointed to not more
8 than two full consecutive terms. A member appointed by the governor
9 may be removed by the governor for cause under RCW 43.06.070 and
10 43.06.080. The members may not be compensated but may be reimbursed,
11 solely from the fund, for expenses incurred in the discharge of their
12 duties under this chapter.

13 (3) Seven members of the board constitute a quorum.

14 (4) The members of the board shall elect one of the business and
15 industry representatives to serve as the chair. There may be other
16 officers as the members determine necessary, and the board may adopt
17 bylaws or rules for its own government.

18 (5) If a vacancy occurs, the governor shall fill the vacancy for
19 the remainder of the term of the board member whose position has
20 become vacant. If the vacancy by resignation or expiration of term is
21 a member who was selected from the lists provided by the speaker of
22 the house of representatives and the president of the senate, the
23 governor must solicit new lists from the speaker and president for
24 consideration in filling the vacancy.

25 (6) Meetings of the board must be held in accordance with the
26 open public meetings act, chapter 42.30 RCW, and at the call of the
27 chair or when a majority of the members so requests. Meetings of the
28 board may be held at any location within or out of the state, and
29 members may participate in a meeting of the board by means of a
30 conference telephone or similar communication equipment under RCW
31 23B.08.200.

32 (7) The purpose of the board is to provide oversight and guidance
33 for the program in light of established legislative priorities and to
34 fulfill the duties and responsibilities under this chapter including,
35 but not limited to, soliciting project proposals and funds and
36 setting annual fundraising goals.

37 (8) The board has all of the general powers necessary to carry
38 out its purposes and duties including those powers reasonably
39 required to implement the purposes of this chapter.

1 NEW SECTION. **Sec. 4.** (1) Any person appointed to serve as an
2 appointee to the higher education infrastructure investment board is
3 subject to senate confirmation.

4 (2) Any appointee subject to senate confirmation shall continue
5 to serve unless rejected by a vote of the senate. An appointee who is
6 rejected by a vote of the senate shall not be reappointed to the same
7 position for a period of one year from termination of service.

8 (3) For the appointment of a board member to be effective, the
9 governor must transmit to the secretary of the senate notice of the
10 appointment, along with pertinent information regarding the
11 appointee.

12 NEW SECTION. **Sec. 5.** (1) The higher education infrastructure
13 investment program is established.

14 (2) The purpose of the program is to leverage state spending on
15 capital projects in high-demand fields of study, in partnership with
16 Washington employers.

17 (3) The board shall select institutions of higher education to
18 receive higher education infrastructure investment awards. In so
19 doing, the board must:

20 (a) Solicit, receive, and evaluate higher education
21 infrastructure project proposals;

22 (b) Develop criteria for evaluating proposals and awarding funds
23 to the proposals deemed most likely to increase the number of
24 baccalaureate degrees;

25 (c) Give priority to proposals that include a partnership between
26 public and private partnership entities that leverage additional
27 private funds;

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

31 (e) Consult with and solicit input from higher education
32 stakeholders including, but not limited to, organizations
33 representing institution faculty, labor, student organizations, and
34 relevant higher education agencies; and

35 (f) Determine which proposals will improve and accelerate the
36 production of baccalaureate degrees, applied baccalaureate degrees,
37 applied associate degrees, and certificates in workforce training.

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

4 (5) The board must develop a plan for the allocation of projected
5 amounts in the fund, which it must update annually, following at
6 least one annual public hearing. The plan must provide for
7 appropriate funding continuity and take into account the projected
8 speed at which revenues will be available and amounts that can be
9 spent during the plan period.

10 (6) Annually, the council must report to the board, the governor,
11 and the relevant committees of the legislature regarding the increase
12 in the number of degrees in high employer demand and other programs
13 of study awarded by institutions of higher education over the average
14 of the preceding ten academic years.

15 (7) The source of funds for the program shall be grants and
16 contributions from private sources and state matching funds.

17 NEW SECTION. **Sec. 6.** (1) The board shall be staffed by the
18 program administrator. The program administrator, under contract with
19 the board, shall staff the board and shall have the duties and
20 responsibilities provided in this chapter including, but not limited
21 to, publicizing the program, soliciting project proposals, and
22 achieving the maximum possible rate of return on investment of the
23 account, while ensuring transparency in the investment decisions and
24 processes. Duties exercised jointly with the board include, but are
25 not limited to, soliciting project proposals and funds and setting
26 annual fundraising goals. The program administrator shall be paid an
27 administrative fee as determined by the board.

28 (2) With respect to the program, the program administrator shall:

29 (a) Establish and manage the higher education infrastructure
30 investment fund in an account outside the state treasury into which
31 to receive grants, donations, and contributions from private sources
32 as well as state matching funds, and from which to disburse funds;

33 (b) Solicit and accept grants and contributions from private
34 sources, via direct payment, pledge agreement, or escrow account, of
35 private sources for deposit into the account;

36 (c) Provide proof of receipt of grants and contributions from
37 private sources to the board, identifying the amounts received by
38 name of private source and date;

1 (d) In consultation with the board and the state board for
2 community and technical colleges, make an assessment of the
3 reasonable annual eligible expenses associated with eligible
4 investments identified by the board;

5 (e) Develop and implement an application, selection, and
6 notification process for evaluating proposals and making awards; and

7 (f) Distribute funds to selected higher education infrastructure
8 projects through grant agreements. Grant agreements must set forth
9 the terms and conditions of the grant and must include, but not be
10 limited to: (i) Deliverables to be provided by the recipient pursuant
11 to the grant; (ii) the circumstances under which the grant amount
12 would be required to be repaid or the circumstances where
13 commercialization-related revenue would be required to be shared;
14 (iii) indemnification, dispute resolution, and any other terms and
15 conditions as are customary for grant agreements or are deemed
16 reasonable by the board; and (iv) the name or naming rights for any
17 building will be decided by the board.

18 (3) With respect to the program, the program administrator shall:

19 (a) Assist the board in developing and implementing an
20 application, selection, and notification process for making higher
21 education infrastructure investment awards;

22 (b) Solicit and accept grants and contributions from private
23 sources for awards; and

24 (c) Ensure that the program's administrative costs are one
25 percent of revenues or less.

26 NEW SECTION. **Sec. 7.** (1) Annually each December 1st, the board,
27 together with the program administrator, shall report to the governor
28 and the appropriate committees of the legislature regarding the
29 program including, but not limited to:

30 (a) Which proposals the board determined were eligible for
31 purposes of the program;

32 (b) The number, amount, and identification of the higher
33 education infrastructure investment projects receiving awards;

34 (c) The institutions and eligible education programs that
35 received higher education infrastructure investment awards; and

36 (d) The total amount of grants and contributions from private
37 sources and state match moneys received for the program, the interest
38 or other earnings on the accounts, and the amount of any
39 administrative fee paid to the program administrator.

1 (2) In the next succeeding legislative session following receipt
2 of a report required under subsection (1) of this section, the
3 appropriate committees of the legislature shall review the report and
4 consider whether any legislative action is necessary with respect to
5 the program including, but not limited to, consideration of whether
6 any legislative action is necessary with respect to the nature and
7 level of focus on high employer demand fields.

8 NEW SECTION. **Sec. 8.** The joint legislative audit and review
9 committee shall evaluate the program and submit a report to the
10 appropriate committees of the legislature by December 1, 2024. The
11 committee's evaluation shall include, but not be limited to:

12 (1) The number and type of eligible proposals as determined by
13 the board;

14 (2) The institutions and eligible education programs that
15 received higher education infrastructure investment awards;

16 (3) The amount of grants and contributions from private sources
17 to the program, annually and in total;

18 (4) The amount of state match moneys to the program, annually and
19 in total;

20 (5) The amount of any administrative fees paid to the program
21 administrator, annually and in total;

22 (6) The source and amount of funding, annually and cumulatively,
23 for the program;

24 (7) The number and type of proposals submitted by institutions of
25 higher education for higher education infrastructure investment
26 awards, the number and type of proposals that received an award of
27 higher education infrastructure investment funds, and the amount of
28 such awards; and

29 (8) The total cumulative number of additional high employer
30 demand degrees produced in Washington state due to the program.

31 NEW SECTION. **Sec. 9.** (1) The board may elect to have the state
32 investment board invest the funds in the account and the fund. If the
33 board so elects, the state investment board has the full power to
34 invest, reinvest, manage, contract, sell, or exchange investment
35 money in the two accounts. All investment and operating costs
36 associated with the investment of money shall be paid under RCW
37 43.33A.160 and 43.84.160. With the exception of these expenses, the

1 earnings from the investment of the money shall be retained by the
2 accounts.

3 (2) All investments made by the state investment board shall be
4 made with the exercise of that degree of judgment and care under RCW
5 43.33A.140 and the investment policy established by the state
6 investment board.

7 (3) As deemed appropriate by the state investment board, money in
8 the account and the fund may be commingled for investment with other
9 funds subject to investment by the state investment board.

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

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

19 (6) The authority to establish all policies relating to the
20 account and the fund, other than the investment policies as provided
21 in subsections (1) through (3) of this section, resides with the
22 board and program administrator acting in accordance with the
23 principles set forth in this chapter. With the exception of expenses
24 of the state investment board in subsection (1) of this section,
25 disbursements from the account and the fund shall be made only as
26 provided in this act.

27 (7) The state investment board shall routinely consult and
28 communicate with the board on the investment policy, earnings of the
29 account and fund, and related needs of the program.

30 NEW SECTION. **Sec. 10.** (1) The higher education infrastructure
31 investment match account is created in the custody of the state
32 treasurer to be used solely and exclusive for the program created in
33 section 5 of this act. The purpose of the account is to provide state
34 matching funds for grants and contributions from private sources to
35 the fund and for costs of the council and board to administer the
36 program. Revenues to the account consist of deposits into the
37 account, legislative appropriations, and any gifts, grants, or
38 donations received by the council for this purpose. The account is

1 subject to the allotment procedures under chapter 43.88 RCW, but an
2 appropriation is not required for expenditures.

3 (2)(a) Expenditures, in the form of matching funds, from the
4 account may be made only in years when:

5 (i) The state match in the amount of ten million dollars or more
6 has been received into the account; and

7 (ii) The state appropriations for higher education capital
8 construction meets or exceeds a rolling average of the last three
9 biennia for state appropriations for higher education capital
10 construction.

11 (b) Expenditures may be made only upon receipt of proof from the
12 program administrator of grants and contributions from private
13 sources to the fund for the program. Expenditures, in the form of
14 matching funds, may not exceed the total amount of grants and
15 contributions from private sources. The council must enter into an
16 appropriate agreement with the program administrator to demonstrate
17 exchange of consideration for the matching funds.

18 (3) Only the executive director of the council or the council's
19 designee may authorize expenditures from the account. Such
20 authorization must be made as soon as practicable following receipt
21 of proof as required under subsection (2)(b) of this section.

22 (4) Any state matching funds for deposit into the account is
23 subject to the appropriation of amounts for this specific purpose.
24 The state is not obligated to appropriate any moneys to the account.
25 The frequency and amount of grants and contributions from private
26 sources creates no express or implied promise or contract by the
27 state to appropriate matching funds.

28 **Sec. 11.** RCW 43.79A.040 and 2016 c 203 s 2, 2016 c 173 s 10,
29 2016 c 69 s 21, and 2016 c 39 s 7 are each reenacted and amended to
30 read as follows:

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

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

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

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

12 (b) The following accounts and funds must receive their
13 proportionate share of earnings based upon each account's or fund's
14 average daily balance for the period: The 24/7 sobriety account, the
15 Washington promise scholarship account, the Washington advanced
16 college tuition payment program account, the Washington college
17 savings program account, the accessible communities account, the
18 Washington achieving a better life experience program account, the
19 community and technical college innovation account, the agricultural
20 local fund, the American Indian scholarship endowment fund, the
21 foster care scholarship endowment fund, the foster care endowed
22 scholarship trust fund, the contract harvesting revolving account,
23 the Washington state combined fund drive account, the commemorative
24 works account, the county enhanced 911 excise tax account, the toll
25 collection account, the developmental disabilities endowment trust
26 fund, the energy account, the fair fund, the family leave insurance
27 account, the food animal veterinarian conditional scholarship
28 account, the fruit and vegetable inspection account, the future
29 teachers conditional scholarship account, the game farm alternative
30 account, the GET ready for math and science scholarship account, the
31 Washington global health technologies and product development
32 account, the grain inspection revolving fund, the higher education
33 infrastructure investment match account, the industrial insurance
34 rainy day fund, the juvenile accountability incentive account, the
35 law enforcement officers' and firefighters' plan 2 expense fund, the
36 local tourism promotion account, the multiagency permitting team
37 account, the pilotage account, the produce railcar pool account, the
38 regional transportation investment district account, the rural
39 rehabilitation account, the Washington sexual assault kit account,
40 the stadium and exhibition center account, the youth athletic

1 facility account, the self-insurance revolving fund, the children's
2 trust fund, the Washington horse racing commission Washington bred
3 owners' bonus fund and breeder awards account, the Washington horse
4 racing commission class C purse fund account, the individual
5 development account program account, the Washington horse racing
6 commission operating account, the life sciences discovery fund, the
7 Washington state heritage center account, the reduced cigarette
8 ignition propensity account, the center for childhood deafness and
9 hearing loss account, the school for the blind account, the
10 Millersylvania park trust fund, the public employees' and retirees'
11 insurance reserve fund, and the radiation perpetual maintenance fund.

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

19 (d) Any state agency that has independent authority over accounts
20 or funds not statutorily required to be held in the custody of the
21 state treasurer that deposits funds into a fund or account in the
22 custody of the state treasurer pursuant to an agreement with the
23 office of the state treasurer shall receive its proportionate share
24 of earnings based upon each account's or fund's average daily balance
25 for the period.

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

29 NEW SECTION. **Sec. 12.** This chapter may be known and cited as
30 the higher education infrastructure investment act.

31 NEW SECTION. **Sec. 13.** Sections 1 through 10 and 12 of this act
32 constitute a new chapter in Title 28B RCW.

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