
SUBSTITUTE HOUSE BILL 2612

State of Washington 63rd Legislature 2014 Regular Session

By House Appropriations Subcommittee on Education (originally sponsored by Representatives Hansen, Haler, Zeiger, and Seaquist)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to the opportunity scholarship program; amending
2 RCW 28B.145.010, 28B.145.030, 28B.145.050, 28B.145.060, and
3 28B.145.070; and adding a new section to chapter 28B.145 RCW.

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

5 **Sec. 1.** RCW 28B.145.010 and 2013 c 39 s 13 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

15 ~~((+3))~~ (4) "Eligible expenses" means reasonable expenses
16 associated with the costs of acquiring an education such as tuition,
17 books, equipment, fees, room and board, and other expenses as
18 determined by the program administrator in consultation with the

1 ((~~board~~)) council and the state board for community and technical
2 colleges.

3 ((~~(4)~~)) (5) "Eligible student" means a resident student who
4 received his or her high school diploma or high school equivalency
5 certificate as provided in RCW 28B.50.536 in Washington and who:

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

9 (ii) Will attend a two-year institution of higher education and
10 intends to transfer to an eligible education program at a four-year
11 institution of higher education;

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

13 (c) Has a family income at or below one hundred twenty-five percent
14 of the state median family income at the time the student applies for
15 an opportunity scholarship.

16 ((~~(5)~~)) (6) "High employer demand program of study" has the same
17 meaning as provided in RCW 28B.50.030.

18 ((~~(6)~~)) (7) "Participant" means an eligible student who has
19 received a scholarship under the opportunity scholarship program.

20 ((~~(7)~~)) (8) "Program administrator" means a college scholarship
21 organization that is a private nonprofit corporation registered under
22 Title 24 RCW and qualified as a tax-exempt entity under section
23 501(c)(3) of the federal internal revenue code, with expertise in
24 managing scholarships and college advising.

25 ((~~(8)~~)) (9) "Resident student" has the same meaning as provided in
26 RCW 28B.15.012.

27 **Sec. 2.** RCW 28B.145.030 and 2011 1st sp.s. c 13 s 4 are each
28 amended to read as follows:

29 (1) The program administrator, under contract with the board, shall
30 staff the ((~~opportunity scholarship~~)) board and shall have the duties
31 and responsibilities provided in this chapter, including but not
32 limited to publicizing the program, selecting participants for the
33 opportunity scholarship award, distributing opportunity scholarship
34 awards, and achieving the maximum possible rate of return on investment
35 of the accounts in subsection (2) of this section, while ensuring
36 transparency in the investment decisions and processes. Duties,
37 exercised jointly with the ((~~opportunity scholarship~~)) board, include

1 soliciting funds and setting annual fund-raising goals. The program
2 administrator shall be paid an administrative fee as determined by the
3 ((~~opportunity scholarship~~)) board.

4 (2) With respect to the opportunity scholarship program, the
5 program administrator shall:

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

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

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

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

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

25 (B) The state appropriations for the state need grant under RCW
26 28B.92.010 meet or exceed state appropriations for the state need grant
27 made in the 2011-2013 biennium, adjusted for inflation, and eligibility
28 for state need grant recipients is at least seventy percent of state
29 median family income; and

30 (C) The state has demonstrated progress toward the goal of total
31 per-student funding levels, from state appropriations plus tuition and
32 fees, of at least the sixtieth percentile of total per-student funding
33 at similar public institutions of higher education in the global
34 challenge states, as defined, measured, and reported in RCW 28B.15.068.
35 In any year in which the office of financial management reports that
36 the state has not made progress toward this goal, no new scholarships
37 may be awarded. In any year in which the office of financial
38 management reports that the percentile of total per-student funding is

1 less than the sixtieth percentile and at least five percent less than
2 the prior year, pledges of future grants and contributions may, at the
3 request of the donor, be released and grants and contributions already
4 received refunded to the extent that opportunity scholarship awards
5 already made can be fulfilled from the funds remaining in the endowment
6 account; ~~((and))~~

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

24 (iv) Once moneys in the opportunity scholarship match transfer
25 account are subject to an agreement under RCW 28B.145.050(5) and are
26 deposited in the scholarship account or endowment account under this
27 section, the state acts in a fiduciary rather than ownership capacity
28 with regard to those assets. Assets in the scholarship account and
29 endowment account are not considered state money, common cash, or
30 revenue to the state;

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

35 (d) In consultation with the ~~((higher education coordinating~~
36 ~~board))~~ council and the state board for community and technical
37 colleges, make an assessment of the reasonable annual eligible expenses

1 associated with eligible education programs identified by the
2 ((~~opportunity scholarship~~)) board;

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

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

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

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

28 (i) Notify institutions of scholarship recipients who will attend
29 their institutions and inform them of the terms of the students'
30 eligibility.

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

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

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

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.145
2 RCW to read as follows:

3 (1) The board may elect to have the state investment board invest
4 the funds in the scholarship account and endowment account described
5 under RCW 28B.145.030(2)(b). If the board so elects, the state
6 investment board has the full power to invest, reinvest, manage,
7 contract, sell, or exchange investment money in the two accounts. All
8 investment and operating costs associated with the investment of money
9 shall be paid under RCW 43.33A.160 and 43.84.160. With the exception
10 of these expenses, the earnings from the investment of the money shall
11 be retained by the accounts.

12 (2) All investments made by the state investment board shall be
13 made with the exercise of that degree of judgment and care under RCW
14 43.33A.140 and the investment policy established by the state
15 investment board.

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

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

22 (5) Members of the state investment board are not liable to the
23 state, to the fund, or to any other person as a result of their
24 activities as members, whether ministerial or discretionary, except for
25 willful dishonesty or intentional violations of law. The state
26 investment board in its discretion may purchase liability insurance for
27 members.

28 (6) The authority to establish all policies relating to the
29 scholarship account and the endowment account, other than the
30 investment policies as provided in subsections (1) through (3) of this
31 section, resides with the board and program administrator acting in
32 accordance with the principles set forth in this chapter. With the
33 exception of expenses of the state investment board in subsection (1)
34 of this section, disbursements from the scholarship account and
35 endowment account shall be made only on the authorization of the
36 opportunity scholarship board or its designee, and moneys in the
37 accounts may be spent only for the purposes specified in this chapter.

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

4 **Sec. 4.** RCW 28B.145.050 and 2011 1st sp.s. c 13 s 6 are each
5 amended to read as follows:

6 (1) The opportunity scholarship match transfer account is created
7 in the custody of the state treasurer as a nonappropriated account to
8 be used solely and exclusively for the opportunity scholarship program
9 created in RCW 28B.145.040. The purpose of the account is to provide
10 matching funds for the opportunity scholarship program.

11 (2) Revenues to the account shall consist of appropriations by the
12 legislature into the account and any gifts, grants, or donations
13 received by the executive director of the ((~~board~~)) council for this
14 purpose.

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

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

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

28 **Sec. 5.** RCW 28B.145.060 and 2013 c 39 s 14 are each amended to
29 read as follows:

30 (1) The opportunity expansion program is established.

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

34 (a) Solicit, receive, and evaluate proposals from institutions of
35 higher education that are designed to directly increase the number of
36 baccalaureate degrees produced in high employer demand and other

1 programs of study, and that include annual numerical targets for the
2 number of such degrees, with a strong emphasis on serving students who
3 received their high school diploma or high school equivalency
4 certificate as provided in RCW 28B.50.536 in Washington or are adult
5 Washington residents who are returning to school to gain a
6 baccalaureate degree;

7 (b) Develop criteria for evaluating proposals and awarding funds to
8 the proposals deemed most likely to increase the number of
9 baccalaureate degrees and degrees produced in high employer demand and
10 other programs of study;

11 (c) Give priority to proposals that include a partnership between
12 public and private partnership entities that leverage additional
13 private funds;

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

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

20 (f) Determine which proposals to improve and accelerate the
21 production of baccalaureate degrees in high employer demand and other
22 programs of study will receive opportunity expansion awards for the
23 following state fiscal year, notify the state treasurer, and announce
24 the awards.

25 (3) The state treasurer, at the direction of the ((~~opportunity~~
26 ~~scholarship~~)) board, must distribute the funds that have been awarded
27 to the institutions of higher education from the opportunity expansion
28 account.

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

32 (5) Annually, the office of financial management shall report to
33 the ((~~opportunity-scholarship~~)) board, the governor, and the relevant
34 committees of the legislature regarding the percentage of Washington
35 households with incomes in the middle-income bracket or higher. For
36 purposes of this section, "middle-income bracket" means household
37 incomes between two hundred and five hundred percent of the 2010

1 federal poverty level, as determined by the United States department of
2 health and human services for a family of four, adjusted annually for
3 inflation.

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

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

16 **Sec. 6.** RCW 28B.145.070 and 2011 1st sp.s. c 13 s 8 are each
17 amended to read as follows:

18 (1) ((~~By December 1, 2012, and~~)) Annually each December 1st
19 ((~~thereafter~~)), the ((~~opportunity scholarship~~)) board, together with
20 the program administrator, shall report to the ((~~board~~)) council, the
21 governor, and the appropriate committees of the legislature regarding
22 the opportunity scholarship and opportunity expansion programs,
23 including but not limited to:

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

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

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

32 (d) The number and amount of the scholarships actually awarded, and
33 whether the scholarships were paid from the scholarship account or the
34 endowment account;

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

1 (f) The total amount of private contributions and state match
2 moneys received for the opportunity scholarship program, how the funds
3 were distributed between the scholarship and endowment accounts, the
4 interest or other earnings on the accounts, and the amount of any
5 administrative fee paid to the program administrator; and

6 (g) Identification of the programs the ((~~opportunity scholarship~~))
7 board selected to receive opportunity expansion awards and the amount
8 of such awards.

9 (2) In the next succeeding legislative session following receipt of
10 a report required under subsection (1) of this section, the appropriate
11 committees of the legislature shall review the report and consider
12 whether any legislative action is necessary with respect to either the
13 opportunity scholarship program or the opportunity expansion program,
14 including but not limited to consideration of whether any legislative
15 action is necessary with respect to the nature and level of focus on
16 high employer demand fields and the number and amount of scholarships.

--- END ---