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**HOUSE BILL 2679**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Morris and Stanford

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) "State agreement" means the agreement authorized under this chapter in which the state provides to the authority the strategic contribution payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement, for the purpose of promoting life sciences research.

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

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

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

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

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

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

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

((~~(3)~~)) (6) The authority must solicit requests for grant funding and evaluate the requests by reference to factors such as: (a) The quality of the proposed research or program; (b) its potential to improve health outcomes of persons with cancer, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular cancer or cancer-related condition or disease; (c) its potential for leveraging additional funding; (d) its potential to provide additional health care benefits or benefit other human diseases or conditions; (e) its potential to stimulate life science, health care, and biomedical employment in the state; (f) the geographic diversity of the grantees within Washington; (g) evidence of potential royalty, sales, or licensing revenue, or other commercialization-related revenue and contractual means to recapture such income for purposes of this chapter; and (h) evidence of public and private collaboration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  The center may develop recommendations to the legislature for a program or process to identify and recruit top graduate students in the fields of life sciences and cancer research to conduct research in Washington state. The center is encouraged to submit such recommendations by December 1, 2016, to the speaker of the house of representatives, the president of the senate, and the committees with jurisdiction over economic development issues.

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

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

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

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

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

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

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

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

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

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

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

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

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