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**ENGROSSED SENATE BILL 5375**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Fain, Braun, Angel, Brown, Becker, O'Ban, Miloscia, Schoesler, Bailey, Sheldon, Warnick, King, Rivers, Fortunato, Rossi, Baumgartner, Wilson, Honeyford, Padden, Zeiger, Ranker, Darneille, Palumbo, Pedersen, Pearson, Frockt, and Hasegawa

AN ACT Relating to the Andy Hill cancer research endowment; and amending RCW 43.348.010, 43.348.020, 43.348.030, 43.348.040, 43.348.050, 43.348.060, 43.348.070, 43.348.080, and 42.56.270.

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

**Sec.**  RCW 43.348.010 and 2015 3rd sp.s. c 34 s 2 are each amended to read as follows:

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

(1) ((~~"Authority" means the cancer research endowment authority created in this chapter.~~

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

((~~(3)~~)) (2) "Cancer" means a group of diseases involving unregulated cell growth.

((~~(4)~~)) (3) "Cancer patient advocacy organizations" means groups with offices in the state that promote cancer prevention and advocate on behalf of cancer patients.

((~~(5)~~)) (4) "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" or~~)) (5) "Fund" means the Andy Hill cancer research ((~~endowment~~)) fund created in RCW 43.348.060(1)(b).

((~~(7)~~)) (6) "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.

((~~(8)~~)) (7) "Committee" means an independent expert scientific review and advisory committee established under RCW 43.348.050.

((~~(9)~~)) (8) "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~~)) endowment contributions for the purpose of cancer research, prevention, or care.

((~~(10)~~)) (9) "Costs" means the costs and expenses associated with the conduct of research, prevention, and care including, but not limited to, the cost of recruiting and compensating personnel, securing and financing facilities and equipment, and conducting clinical trials.

((~~(11)~~)) (10) "Department" means the department of commerce.

(11) "Endowment" means the Andy Hill cancer research endowment.

(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) "Prevention" means measures to prevent the development and progression of cancer, including education, vaccinations, and screening processes and technologies, and to reduce the risk of cancer.

(15) "Program" means the Andy Hill cancer research endowment program created in RCW 43.348.040.

(16) "Program administrator" means a private nonprofit corporation qualified as a tax-exempt entity under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code, with expertise in conducting or managing research granting activities, funds, or organizations.

**Sec.**  RCW 43.348.020 and 2015 3rd sp.s. c 34 s 3 are each amended to read as follows:

(1) The Andy Hill cancer research endowment ((~~authority~~)) is created. The powers of the ((~~authority~~)) endowment are vested in and must be exercised by a board. The board consists of thirteen members appointed by the governor:

(a) Two members must be appointed from nominations submitted by the presidents of the University of Washington and Washington State University;

(b) Two members must be appointed from nominations submitted by the Fred Hutchinson cancer research center, Seattle cancer care alliance, and the Seattle children's research institute;

(c) Two members must be appointed from nominations submitted by patient advocacy organizations;

(d) Two members must be appointed from nominations submitted by representatives of businesses or industries engaged in the commercialization of life sciences research or cancer research;

(e) One member must be appointed from a list of at least three nominated by the speaker of the house of representatives;

(f) One member must be appointed from a list of at least three nominated by the president of the senate;

(g) One member must be appointed from nominations submitted by entities or systems that provide health care delivery services;

(h) One member ((~~[must be appointed]~~)) must be appointed from nominations provided by private sector donors to the fund. However, the governor may reject all nominations and request a new list from which the governor must select the member; and

(i) The remaining member must be a member of the public.

(2) In soliciting nominations and appointing members, the governor must seek to identify individuals from throughout the state having relevant knowledge, experience, and expertise with regard to (a) cancer research, prevention, and care; (b) health care consumer issues; (c) government finance and budget; and (d) the commercialization of life sciences or cancer research. In soliciting nominations and appointing members, the governor must seek individuals who will contribute to the geographic diversity of the board, with the goal that at least five board members be from counties with a population less than one million persons. Appointments must be made on or before July 1, 2016.

(3) The term of a member is four years from the date of their appointment except the initial term of the members in subsection (1)(d) through (i) of this section must be two years to create a staggered appointment process. A member may be appointed to not more than two full consecutive terms. A member appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The members may not be compensated but may be reimbursed, solely from the fund, for expenses incurred in the discharge of their duties under this chapter.

(4) Seven members of the board constitute a quorum.

(5) The members must elect a chair, treasurer, and secretary annually, and other officers as the members determine necessary, and may adopt bylaws or rules for their own government.

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

**Sec.**  RCW 43.348.030 and 2015 3rd sp.s. c 34 s 4 are each amended to read as follows:

The ((~~authority~~)) endowment has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the ((~~authority~~)) endowment may:

(1) Sue and be sued in its own name;

(2) Make and execute agreements, contracts, and other instruments, with any public or private person or entity, including commercial entities, in accordance with this chapter;

(3) Employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter;

(4) Exercise any other power reasonably required to implement the purposes of this chapter; and

(5) Delegate any of its powers and duties if consistent with the purposes of this chapter.

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

(1) The Andy Hill cancer research endowment program is created. 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. The ((~~authority~~)) endowment is to oversee and guide the program, including the solicitation, selection, and award of grants.

(2) The board must develop a plan for the allocation of projected amounts in 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) The ((~~authority~~)) endowment 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) The ((~~authority~~)) endowment 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.

(5) The ((~~authority~~)) endowment must issue an annual report to the public that sets forth its activities with respect to 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 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~~)) endowment's administrative expenses; an assessment of the availability of funding for cancer research, prevention, and care from sources other than the ((~~authority~~)) endowment; 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) The ((~~authority's~~)) endowment's first annual report must include a proposed operating plan for the design, implementation, and administration of an endowment program supporting the purposes of the ((~~authority~~)) endowment and program.

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

(8) The ((~~authority~~)) endowment 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~~)) endowment determines to establish, the ((~~authority~~)) endowment 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 ((~~CARE~~)) Andy Hill cancer research fund; advising the ((~~authority~~)) endowment during the development and review of its strategic plans for cancer research; and advising the ((~~authority~~)) endowment on scientific and other matters in furtherance of the cancer research purposes of ((~~chapter 34, Laws of 2015 3rd sp. sess~~)) this chapter.

(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 ((~~CARE~~)) fund may be made only upon majority vote of the committee.

**Sec.**  RCW 43.348.060 and 2015 3rd sp.s. c 34 s 7 are each amended to read as follows:

(1) The program administrator must provide services to the board and has the following duties and responsibilities:

(a) Jointly with the board, solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities, including commercial entities, in order to use those moneys to fund grants awarded by the ((~~authority~~)) endowment;

(b) Establish ((~~a~~)) an Andy Hill cancer research ((~~endowment~~)) fund ((~~to be known as the CARE fund~~)). The ((~~CARE~~)) fund must be a separate private account outside the state treasury into which grants and contributions received from public and private sources as well as state matching funds must be deposited, and from which funds for grants awarded by the ((~~authority~~)) endowment must be disbursed. Once moneys in the Andy Hill cancer research endowment fund match transfer account are subject to an agreement under RCW 43.348.080(6) and are deposited in the ((~~CARE~~)) fund under this section, the moneys in the ((~~CARE~~)) fund are not considered state money, common cash, or revenue to the state;

(c) Manage the ((~~CARE~~)) fund, its obligations, and investments as to achieve the maximum possible rate of return on investment in the ((~~CARE~~)) fund;

(d) Establish policies and procedures to facilitate the orderly process of grant application, review, selection, and notification; and

(e) Distribute ((~~CARE~~)) funds to selected entities through grant agreements. Grant agreements must set forth the terms and conditions of the grant and must include, but not be limited to: (i) Deliverables to be provided by the recipient pursuant to the grant; (ii) 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 (iii) indemnification, dispute resolution, and any other terms and conditions as are customary for grant agreements or are deemed reasonable by the board. The program administrator may negotiate with any grantee the costs associated with performing scientific activities funded by grants.

(2) Periodically, but not less often than every three years, the ((~~authority~~)) endowment and the department must conduct a request for proposals and retain the services of an independent auditor with experience in performance auditing of research granting entities similar to the ((~~authority~~)) endowment. The independent auditor must review the ((~~authority's~~)) endowment's strategic plan, program, and program administrator and publish a report assessing their performance and providing recommendations for improvement. The ((~~authority~~)) endowment must hold at least one public hearing at which the results of each audit are presented and discussed.

**Sec.**  RCW 43.348.070 and 2015 3rd sp.s. c 34 s 8 are each amended to read as follows:

The program administrator may create additional legal entities and take such action as may be necessary or advisable to enable the ((~~CARE~~)) fund to accept charitable contributions. In addition, the program administrator may provide technical assistance, information, and training to private employers and other potential donors to establish programs that facilitate charitable contributions to the ((~~CARE~~)) fund including tobacco use premium surcharge programs.

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

(1) The Andy Hill cancer research endowment fund match transfer account 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. The purpose of the account is to provide matching funds for the ((~~CARE~~)) fund and administrative costs. Expenditures to fund or reimburse the program administrator are not subject to the requirements of subsection (4) of this section.

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

(3) The legislature must appropriate a state match, 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) Expenditures, in the form of matching funds, from the account may be made only upon 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.

(5) Only the director of the department or the director's designee may authorize expenditures from the Andy Hill cancer research endowment fund match transfer account. 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 42.56.270 and 2017 c 317 s 17 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4);

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities;

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565;

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining, or renewing a license to produce, process, transport, or sell marijuana as allowed under chapter 69.50 RCW;

(25) Marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access, submitted by an individual or business to the liquor and cannabis board under the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345 for the purpose of marijuana product traceability. Disclosure to local, state, and federal officials is not considered public disclosure for purposes of this section;

(26) Financial and commercial information submitted to or obtained by the retirement board of any city that is responsible for the management of an employees' retirement system pursuant to the authority of chapter 35.39 RCW, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the retirement fund or to result in private loss to the providers of this information except that (a) the names and commitment amounts of the private funds in which retirement funds are invested and (b) the aggregate quarterly performance results for a retirement fund's portfolio of investments in such funds are subject to disclosure;

(27) Proprietary financial, commercial, operations, and technical and research information and data submitted to or obtained by the liquor and cannabis board in applications for marijuana research licenses under RCW 69.50.372, or in reports submitted by marijuana research licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372; ((~~and~~))

(28) Trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts, entered into by a licensed marijuana business under RCW 69.50.--- (section 16, chapter 317, Laws of 2017), which may be submitted to or obtained by the state liquor and cannabis board; and

(29) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the Andy Hill cancer research endowment program in applications for, or delivery of, grants under chapter 43.348 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information.

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