
SUBSTITUTE SENATE BILL 5953

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Higher Education (originally sponsored by Senators Kohl-Welles, Sheahan, Shin, Winsley and Thibaudeau)

Read first time 03/02/1999.

1 AN ACT Relating to a loan repayment and conditional scholarship
2 endowment program for attorneys who provide legal services in public
3 interest areas of the law; amending RCW 43.79A.040; adding a new
4 chapter to Title 28B RCW; and making appropriations.

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

6 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to provide
7 affordable access to legal education and meet the legal needs of the
8 state of Washington in public interest areas of the law. The high cost
9 of attending law school requires that attorneys command high incomes to
10 repay the financial obligations incurred in obtaining the required
11 training. As a result of the need for high incomes, few attorneys are
12 able to practice in public interest areas of the law, which
13 traditionally pay substantially less than other areas. The legislature
14 finds that encouraging outstanding law students and attorneys to
15 practice in public interest areas of the law is essential to assuring
16 access to legal services in areas of public interest.

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

4 (1) "Board" means the higher education coordinating board.

5 (2) "Conditional scholarship" means a loan that is forgiven in
6 whole or in part if the recipient renders legal services in a public
7 interest area of the law.

8 (3) "Eligible education and training programs" means education and
9 training programs approved by the board that lead to eligibility for a
10 license to practice law as a licensed attorney.

11 (4) "Eligible expenses" means reasonable expenses associated with
12 the costs of acquiring an education such as tuition, books, equipment,
13 fees, room and board, and other expenses determined by the board.

14 (5) "Eligible participant" means an eligible student or licensed
15 attorney who is a resident of the state of Washington, and who can
16 provide proof of residency including, but not limited to:

17 (a) Continuous domicile in the state of Washington for at least one
18 year before applying for the program;

19 (b) Enrollment in an eligible education and training program as a
20 resident of the state of Washington for purposes of tuition;

21 (c) Full-time enrollment in an eligible education and training
22 program located in the state of Washington;

23 (d) Graduation from a baccalaureate institution located in the
24 state of Washington before admission to law school;

25 (e) Registration or payment of Washington taxes or fees on a motor
26 vehicle, mobile home, travel trailer, boat, or any other item of
27 personal property owned or used by the person for which state
28 registration or the payment of a state tax or fees is required;

29 (f) Permanent full-time employment in the state of Washington; or

30 (g) Registration to vote for state officials in the state of
31 Washington.

32 (6) "Eligible student" means a student who has been accepted into
33 an eligible education or training program and has a declared intention
34 to provide legal services in a public interest area of the law upon
35 completion of the education or training program.

36 (7) "Forgiven" or "to forgive" or "forgiveness" means to render
37 legal services in a public interest area of the law in the state of
38 Washington in lieu of monetary repayment.

1 (8) "Licensed attorney" means an attorney who has successfully
2 passed the Washington state bar exam and been admitted to practice in
3 the state of Washington or has otherwise been licensed to practice law
4 in the state of Washington by the Washington state bar association.

5 (9) "Loan repayment" means a loan that is paid in full or in part
6 if the participant renders legal services in a public interest area of
7 the law.

8 (10) "Participant" means a licensed attorney who has received a
9 loan repayment award and has commenced practice as a licensed attorney
10 in a public interest area of the law or an eligible student who has
11 received a conditional scholarship under this program.

12 (11) "Program" means the public interest attorney loan repayment
13 and conditional scholarship program.

14 (12) "Public interest area of the law" means those areas of the law
15 determined by the board in consultation with the selection committee to
16 serve the public interest including, but not limited to:

17 (a) Providing direct legal service at a legal services organization
18 or public defender association;

19 (b) Providing indirect legal services at a legal services
20 organization, public defender association, or 501(c)(3) corporation;

21 (c) Practicing at a 501(c)(3) corporation or a government agency
22 that provides legal services; or

23 (d) Practicing in some other capacity that the selection committee
24 determines serves the public interest.

25 (13) "Required service obligation" means an obligation by the
26 participant to provide legal services in a public interest area of the
27 law for a period of time to be established as provided for in this
28 chapter.

29 (14) "Satisfied" means paid in full.

30 NEW SECTION. **Sec. 3.** PROGRAM--DUTIES OF BOARD. The public
31 interest attorney loan repayment and conditional scholarship program is
32 established for licensed attorneys and law students who practice or
33 agree to practice in public interest areas of the law in the state of
34 Washington. The program shall be administered by the board. In
35 administering this program, the board shall establish at least two
36 committees, the review committee and the selection committee. Each
37 committee may include, but is not limited to, one representative from
38 the Washington state bar association, one representative from the

1 access to justice board, and up to two representatives from each of the
2 law schools located in the state of Washington. The review committee
3 shall include at least one law student representative.

4 (1) The review committee shall advise the board in performing the
5 following duties:

6 (a) Adopting rules and developing guidelines to administer the
7 program;

8 (b) Collecting and managing repayments from participants who do not
9 meet their service obligations under this chapter; and

10 (c) Developing criteria for a contract for service in lieu of the
11 service obligation where appropriate, that may be a combination of
12 service and payment.

13 (2) The review committee shall publicize the program and solicit
14 grants and donations from public and private sources for the program,
15 to be accepted by the board and deposited into the endowment account.

16 (3) The selection committee shall select licensed attorneys to
17 participate in the loan repayment portion of the loan repayment and
18 conditional scholarship program and select eligible students to
19 participate in the conditional scholarship portion of the loan
20 repayment and conditional scholarship program. In selecting eligible
21 participants, the committee may consider the following criteria:

22 (a) A demonstrated commitment on the part of the applicant to
23 practice in public interest areas of the law;

24 (b) The financial need of the applicant;

25 (c) The demand for the type of public interest work the applicant
26 seeks to perform;

27 (d) The scholastic achievements of the applicant; and

28 (e) Any other criteria the committee deems relevant to the
29 selection process.

30 NEW SECTION. **Sec. 4.** LOAN REPAYMENT--REQUIRED SERVICE
31 OBLIGATION--CONDITIONAL SCHOLARSHIP PROGRAM. The board shall:

32 (1) Establish loan repayments for licensed attorneys who practice
33 in a public interest area of the law. The amount of the loan repayment
34 shall not exceed fifteen thousand dollars per year for a maximum of
35 five years per individual. Participants incur an obligation to repay
36 the loan under section 6 of this act unless they practice for one year
37 in a public interest area of the law for each year of loan repayment
38 received;

1 (2) Establish a conditional scholarship program for eligible
2 students who have been accepted into an eligible education or training
3 program leading to a license to practice law and who agree to practice
4 in a public interest area of the law upon receiving a license to
5 practice law. The amount of the conditional scholarship shall not
6 exceed fifteen thousand dollars per year for a maximum of five years
7 per individual. Participants incur an obligation to repay the
8 conditional scholarship under section 7 of this act unless they
9 practice for one year in a public interest area of the law for each
10 year of conditional scholarship received.

11 NEW SECTION. **Sec. 5.** LOAN REPAYMENT AND CONDITIONAL SCHOLARSHIP
12 AWARDS. (1) The board may grant loan repayment and conditional
13 scholarship awards to eligible participants from the funds appropriated
14 for this purpose, or from any private or public funds given to the
15 board for this purpose.

16 (2) Funds appropriated for the program, including reasonable
17 administrative costs, may be used by the board for the purposes of loan
18 repayments or conditional scholarships. The board shall annually
19 establish the total amount of funding to be awarded for loan repayments
20 and conditional scholarships and such allocations shall be established
21 based upon the best use of funding for that year.

22 NEW SECTION. **Sec. 6.** PARTICIPANT OBLIGATION--REPAYMENT
23 OBLIGATION. Participants in the public interest attorney loan
24 repayment and conditional scholarship program who are awarded loan
25 repayments shall receive payment from the program for the purpose of
26 repaying educational loans secured while attending a program of legal
27 training that led to a license to practice law in the state of
28 Washington.

29 (1) Participants shall agree to meet the required service
30 obligation in a designated public interest area of the law.

31 (2) Repayment shall be limited to eligible educational and living
32 expenses as determined by the board and shall include principal and
33 interest.

34 (3) Loans from both government and private sources may be repaid by
35 the program. Participants shall agree to allow the board access to
36 loan records and to acquire information from lenders necessary to

1 verify eligibility and to determine payments. Loans may not be
2 renegotiated with lenders to accelerate repayment.

3 (4) Repayment of loans under this chapter shall begin no later than
4 ninety days after the individual has become a participant. Payments
5 shall be made quarterly, or more frequently if deemed appropriate by
6 the board, to the participant until the loan is repaid or until the
7 required service obligation is fulfilled and eligibility discontinues,
8 whichever comes first.

9 (5) Should the participant discontinue practicing in a public
10 interest area of the law, payments against the loans of the participant
11 shall cease to be effective on the date that the participant
12 discontinues service.

13 (6) Except for circumstances beyond their control, participants who
14 serve less than the required service obligation shall be obligated to
15 repay to the program an amount equal to twice the total amount paid by
16 the program on their behalf in addition to any payments on the
17 unsatisfied portion of the principal and interest. The board shall
18 determine the applicability of this subsection.

19 (7) The board is responsible for the collection of payments made on
20 behalf of participants from the participants who discontinue service
21 before completion of the required service obligation. The board shall
22 exercise due diligence in collection, maintaining all necessary records
23 to ensure that the maximum amount of payment made on behalf of the
24 participant is recovered. Collection under this section shall be
25 pursued using the full extent of the law, including wage garnishment if
26 necessary.

27 (8) The board is not responsible for any outstanding payments on
28 principal and interest to any lenders once a participant's eligibility
29 expires.

30 NEW SECTION. **Sec. 7.** PARTICIPANT OBLIGATION--CONDITIONAL
31 SCHOLARSHIPS. (1) Participants in the public interest attorney loan
32 repayment and conditional scholarship program who are awarded
33 conditional scholarships incur an obligation to repay the conditional
34 scholarship, with interest, unless they serve the required service
35 obligation in a public interest area of the law in the state of
36 Washington.

1 (2) The interest rate shall be eight percent for the first four
2 years of repayment and ten percent beginning with the fifth year of
3 repayment.

4 (3) The period for repayment shall coincide with the required
5 service obligation, with payments of principal and interest accruing
6 quarterly commencing no later than nine months from the date the
7 participant completes or discontinues the course of study. Provisions
8 for deferral of payment shall be determined by the board.

9 (4) The entire principal and interest of each payment shall be
10 forgiven for each payment period in which the participant practices in
11 a public interest area of the law until the entire repayment obligation
12 is satisfied or the borrower ceases to so serve. Should the
13 participant cease practicing in a public interest area of the law in
14 this state before the participant's repayment obligation is completed,
15 payments on the unsatisfied portion of the principal and interest shall
16 begin the next payment period and continue until the remainder of the
17 participant's repayment obligation is satisfied. Except for
18 circumstances beyond their control, participants who serve less than
19 the required service obligation shall be obliged to repay to the
20 program an amount equal to twice the total amount paid by the program
21 on their behalf.

22 (5) The board is responsible for collection of repayments made
23 under this section and shall exercise due diligence in such collection,
24 maintaining all necessary records to ensure that maximum repayments are
25 made. Collection and servicing of repayments under this section shall
26 be pursued using the full extent of the law, including wage garnishment
27 if necessary, and shall be performed by entities approved for such
28 servicing by the Washington student loan guaranty association or its
29 successor agency. The board is responsible to forgive all or parts of
30 such repayments under the criteria established in this section and
31 shall maintain all necessary records of forgiven payments.

32 (6) Receipts from the payment of principal or interest or any other
33 subsidies to which the board as administrator is entitled, which are
34 paid by or on behalf of participants under this section, shall be
35 deposited with the board and shall be used to cover the costs of
36 granting the conditional scholarships, maintaining necessary records,
37 and making collections under subsection (5) of this section. The board
38 shall maintain accurate records of these costs, and all receipts beyond

1 those necessary to pay such costs shall be used to grant conditional
2 scholarships to eligible students.

3 (7) The board may make exceptions to the conditions for
4 participation and repayment obligations should circumstances beyond the
5 control of individual participants warrant such exceptions.

6 NEW SECTION. **Sec. 8.** PUBLIC INTEREST ATTORNEY LOAN REPAYMENT AND
7 CONDITIONAL SCHOLARSHIP ACCOUNT. (1) The public interest attorney loan
8 repayment and conditional scholarship account is created in the custody
9 of the state treasurer. The account shall be a nontreasury account
10 retaining its interest earnings in accordance with RCW 43.79A.040.

11 (2) The board shall deposit in the account all money received for
12 the program. The account shall be self-sustaining and consist of funds
13 appropriated by the legislature for the public interest attorney loan
14 repayment and conditional scholarship program, private contributions to
15 the program, and receipts from participant repayments.

16 (3) Expenditures from the account shall not exceed half of each
17 appropriation until the program becomes self-sustaining and shall be
18 used for conditional loans to students, loan repayments for eligible
19 attorneys, and the board's administrative costs associated with the
20 awarding, tracking, and collection of the loans. Appropriations to the
21 program shall end when the account becomes self-sustaining.

22 (4) With the exception of the operating costs associated with the
23 management of the account by the treasurer's office as authorized in
24 chapter 43.79A RCW, the account shall be credited with all investment
25 income earned by the account.

26 (5) Disbursements from the account are exempt from appropriations
27 and the allotment provisions of chapter 43.88 RCW. Money used for
28 program administration is subject to the allotment and budgetary
29 controls of chapter 43.88 RCW, and an appropriation is required for
30 expenditures.

31 (6) Disbursements from the account shall be made only on the
32 authorization of the board.

33 NEW SECTION. **Sec. 9.** POWERS AND DUTIES OF THE INVESTMENT BOARD.
34 (1) The investment board has the full power to invest, reinvest,
35 manage, contract, sell, or exchange investment money in the account.
36 All investment and operating costs associated with the investment of
37 money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the

1 exception of these expenses, the earnings from the investment of the
2 money shall be retained by the account.

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

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

10 (4) The authority to establish all policies relating to the
11 account, other than the investment policies in subsections (1) through
12 (3) of this section, resides with the board. With the exception of
13 expenses of the investment board in subsection (1) of this section,
14 disbursements from the account shall be made only on the authorization
15 of the governing body, and money in the account may be spent only for
16 the purposes of the program as specified in this chapter.

17 (5) The investment board shall routinely consult and communicate
18 with the higher education coordinating board on the investment policy,
19 earnings of the trust, and related needs of the program.

20 NEW SECTION. **Sec. 10.** TRANSFER OF PROGRAM ADMINISTRATION. After
21 consulting with the board, the governor may transfer the administration
22 of this program to another agency with an appropriate mission.

23 **Sec. 11.** RCW 43.79A.040 and 1998 c 268 s 1 are each amended to
24 read as follows:

25 (1) Money in the treasurer's trust fund may be deposited, invested,
26 and reinvested by the state treasurer in accordance with RCW 43.84.080
27 in the same manner and to the same extent as if the money were in the
28 state treasury.

29 (2) All income received from investment of the treasurer's trust
30 fund shall be set aside in an account in the treasury trust fund to be
31 known as the investment income account.

32 (3) The investment income account may be utilized for the payment
33 of purchased banking services on behalf of treasurer's trust funds
34 including, but not limited to, depository, safekeeping, and
35 disbursement functions for the state treasurer or affected state
36 agencies. The investment income account is subject in all respects to
37 chapter 43.88 RCW, but no appropriation is required for payments to

1 financial institutions. Payments shall occur prior to distribution of
2 earnings set forth in subsection (4) of this section.

3 (4)(a) Monthly, the state treasurer shall distribute the earnings
4 credited to the investment income account to the state general fund
5 except under (b) and (c) of this subsection.

6 (b) The following accounts and funds shall receive their
7 proportionate share of earnings based upon each account's or fund's
8 average daily balance for the period: The public interest attorney
9 loan repayment and conditional scholarship account, the Washington
10 advanced college tuition payment program account, the agricultural
11 local fund, the American Indian scholarship endowment fund, the
12 Washington international exchange scholarship endowment fund, the
13 energy account, the fair fund, the game farm alternative account, the
14 grain inspection revolving fund, the rural rehabilitation account, the
15 stadium and exhibition center account, the youth athletic facility
16 grant account, the self-insurance revolving fund, the sulfur dioxide
17 abatement account, and the children's trust fund. However, the
18 earnings to be distributed shall first be reduced by the allocation to
19 the state treasurer's service fund pursuant to RCW 43.08.190.

20 (c) The following accounts and funds shall receive eighty percent
21 of their proportionate share of earnings based upon each account's or
22 fund's average daily balance for the period: The advanced right of way
23 revolving fund, the advanced environmental mitigation revolving
24 account, the federal narcotics asset forfeitures account, the high
25 occupancy vehicle account, the local rail service assistance account,
26 and the miscellaneous transportation programs account.

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

30 NEW SECTION. Sec. 12. CAPTIONS NOT LAW. Captions as used in this
31 chapter are not any part of the law.

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

34 NEW SECTION. Sec. 14. (1) The sum of one million dollars, or as
35 much thereof as may be necessary, is appropriated for the fiscal year

1 ending June 30, 2000, from the general fund to the higher education
2 coordinating board for the purposes of this act.

3 (2) The sum of one million dollars, or as much thereof as may be
4 necessary, is appropriated for the fiscal year ending June 30, 2001,
5 from the general fund to the higher education coordinating board for
6 the purposes of this act.

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