
SENATE BILL 5953

State of Washington 56th Legislature 1999 Regular Session

By Senators Kohl-Welles, Sheahan, Shin, Winsley and Thibaudeau

Read first time 02/17/1999. Referred to Committee on Higher Education.

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

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) "Eligible education and training programs" means education and
6 training programs approved by the board that lead to eligibility for a
7 license to practice law as a licensed attorney.

8 (3) "Eligible expenses" means reasonable expenses associated with
9 the costs of acquiring an education such as tuition, books, equipment,
10 fees, room and board, and other expenses determined by the board.

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

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

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

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

20 (d) Registration or payment of Washington taxes or fees on a motor
21 vehicle, mobile home, travel trailer, boat, or any other item of
22 personal property owned or used by the person for which state
23 registration or the payment of a state tax or fees is required;

24 (e) Permanent full-time employment in the state of Washington; or

25 (f) Registration to vote for state officials in the state of
26 Washington.

27 (5) "Eligible student" means a student who has been accepted into
28 an eligible education or training program and has a declared intention
29 to provide legal services in a public interest area of the law upon
30 completion of the education or training program.

31 (6) "Forgiven" or "to forgive" or "forgiveness" means to render
32 legal services in a public interest area of the law in the state of
33 Washington in lieu of monetary repayment.

34 (7) "Licensed attorney" means an attorney who has successfully
35 passed the Washington state bar exam and been admitted to practice in
36 the state of Washington or has otherwise been licensed to practice law
37 in the state of Washington by the Washington state bar association.

1 (8) "Loan repayment" means a loan that is paid in full or in part
2 if the participant renders legal services in a public interest area of
3 the law.

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

8 (10) "Program" means the public interest attorney loan repayment
9 and scholarship program.

10 (11) "Public interest area of the law" means those areas of the law
11 determined by the board to serve the public interest including, but not
12 limited to:

13 (a) Providing direct legal service at a legal services organization
14 or public defender association;

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

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

19 (d) Practicing in some other capacity that the board determines
20 serves the public interest.

21 (12) "Required service obligation" means an obligation by the
22 participant to provide legal services in a public interest area of the
23 law for a period of time to be established as provided for in this
24 chapter.

25 (13) "Satisfied" means paid in full.

26 (14) "Scholarship" means a loan that is forgiven in whole or in
27 part if the recipient renders legal services in a public interest area
28 of the law.

29 NEW SECTION. **Sec. 3.** PROGRAM--DUTIES OF BOARD. The public
30 interest attorney loan repayment and scholarship program is established
31 for licensed attorneys and law students who practice or agree to
32 practice in public interest areas of the law in the state of
33 Washington. The program shall be administered by the board. In
34 administering this program, the board shall establish at least two
35 committees. Each committee may include one representative from the
36 Washington state bar association, one representative from the access to
37 justice board, and up to two representatives from each of the law

1 schools located in the state of Washington. The review committee shall
2 include at least one law student representative.

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

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

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

9 (c) Publicizing the program;

10 (d) Soliciting and accepting grants and donations from public and
11 private sources for the program; and

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

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

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

23 (b) The financial need of the applicant;

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

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

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

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

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

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

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

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

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

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

28 (2) Repayment shall be limited to eligible educational and living
29 expenses as determined by the board and shall include principal and
30 interest.

31 (3) Loans from both government and private sources may be repaid by
32 the program. Participants shall agree to allow the board access to
33 loan records and to acquire information from lenders necessary to
34 verify eligibility and to determine payments. Loans may not be
35 renegotiated with lenders to accelerate repayment.

36 (4) Repayment of loans under this chapter shall begin no later than
37 ninety days after the individual has become a participant. Payments

1 shall be made quarterly, or more frequently if deemed appropriate by
2 the board, to the participant until the loan is repaid or until the
3 required service obligation is fulfilled and eligibility discontinues,
4 whichever comes first.

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

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

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

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

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

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

35 (3) The period for repayment shall coincide with the required
36 service obligation, with payments of principal and interest accruing
37 quarterly commencing no later than nine months from the date the

1 participant completes or discontinues the course of study. Provisions
2 for deferral of payment shall be determined by the board.

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

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

26 (6) Receipts from the payment of principal or interest or any other
27 subsidies to which the board as administrator is entitled, which are
28 paid by or on behalf of participants under this section, shall be
29 deposited with the board and shall be used to cover the costs of
30 granting the scholarships, maintaining necessary records, and making
31 collections under subsection (5) of this section. The board shall
32 maintain accurate records of these costs, and all receipts beyond those
33 necessary to pay such costs shall be used to grant scholarships to
34 eligible students.

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

1 NEW SECTION. **Sec. 8.** PUBLIC INTEREST ATTORNEY LOAN REPAYMENT AND
2 SCHOLARSHIP PROGRAM ACCOUNT. (1) The public interest attorney loan
3 repayment and scholarship account is created in the custody of the
4 state treasurer. The account shall be a discrete nontreasury account
5 retaining its interest earnings in accordance with RCW 43.79A.040.

6 (2) The board shall deposit in the account all money received for
7 the program. The account shall be self-sustaining and consist of funds
8 appropriated by the legislature for the public interest attorney loan
9 repayment and scholarship program, private contributions to the
10 program, and receipts from participant repayments.

11 (3) Expenditures from the account shall not exceed half of the
12 appropriation until the program becomes self-sustaining and shall be
13 used for conditional loans to students, loan repayments for eligible
14 attorneys, and the board's administrative costs associated with the
15 awarding, tracking, and collection of the loans.

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

20 (5) Disbursements from the account are exempt from appropriations
21 and the allotment provisions of chapter 43.88 RCW. Money used for
22 program administration is subject to the allotment and budgetary
23 controls of chapter 43.88 RCW, and an appropriation is required for
24 expenditures.

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

27 NEW SECTION. **Sec. 9.** POWERS AND DUTIES OF THE INVESTMENT BOARD.

28 (1) The investment board has the full power to invest, reinvest,
29 manage, contract, sell, or exchange investment money in the account.
30 All investment and operating costs associated with the investment of
31 money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the
32 exception of these expenses, the earnings from the investment of the
33 money shall be retained by the account.

34 (2) All investments made by the investment board shall be made with
35 the exercise of that degree of judgment and care pursuant to RCW
36 43.33A.140 and the investment policy established by the state
37 investment board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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