
SUBSTITUTE SENATE BILL 6233

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Wojahn, McDonald, Loveland, Deccio, Snyder, Spanel, Winsley, Rasmussen, Gardner, Costa, Hale, McAuliffe and Kline)

Read first time 02/02/2000.

1 AN ACT Relating to the developmental disabilities endowment trust
2 fund; amending RCW 43.330.200, 43.330.210, 43.330.220, and 43.330.230;
3 amending 1999 c 384 s 1 (uncodified); and adding new sections to
4 chapter 43.330 RCW.

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

6 **Sec. 1.** 1999 c 384 s 1 (uncodified) is amended to read as follows:

7 The legislature recognizes that the main and most enduring support
8 for persons with developmental disabilities, along with public
9 resources, is their immediate and extended families. The legislature
10 recognizes that these families are searching for ways to provide for
11 the long-term continuing care of their disabled family member when the
12 family can no longer provide that care. It is the intent of the
13 legislature to encourage and assist families to engage in long-range
14 financial planning and to contribute to the lifetime care of their
15 disabled family member. To further these objectives, this chapter is
16 enacted to finance (~~long-term care~~) lifetime services and supports
17 for persons with developmental disabilities through an endowment funded
18 jointly by the investment of public funds and dedicated family
19 contributions.

1 The establishment of this endowment is not intended to diminish the
2 state's responsibility for funding services currently available to
3 future endowment participants, subject to available funding, nor is it
4 the intent of the legislature, by the creation of this public/private
5 endowment, to impose additional, unintended financial liabilities on
6 the public.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330 RCW
8 to read as follows:

9 The definitions in this section apply throughout RCW 43.330.200
10 through 43.330.230 and sections 4 and 7 of this act.

11 (1) "Developmental disability" has the meaning in RCW
12 71A.10.020(3).

13 (2) "Developmental disabilities endowment trust fund" means the
14 fund established in the custody of the state treasurer in section 3 of
15 this act, comprised of private, public, or private and public sources,
16 to finance services for persons with developmental disabilities. All
17 moneys in the fund, all property and rights purchased from the fund,
18 and all income attributable to the fund, shall be held in trust by the
19 state investment board, as provided in RCW 43.33A.030, for the
20 exclusive benefit of fund beneficiaries. The principal and interest of
21 the endowment fund must be maintained until such time as the governing
22 board policy specifies except for the costs and expenses of the state
23 treasurer and the state investment board otherwise provided for in this
24 act.

25 (3) "Governing board" means the developmental disabilities
26 endowment governing board in section 4 of this act.

27 (4) "Individual trust account" means accounts established within
28 the endowment trust fund for each individual named beneficiary for the
29 benefit of whom contributions have been made to the fund. The money in
30 each of the individual accounts is held in trust as provided for in
31 subsection (2) of this section, and shall not be considered state funds
32 or revenues of the state. The governing board serves as administrator,
33 manager, and recordkeeper for the individual trust accounts for the
34 benefit of the individual beneficiaries. The policies governing the
35 disbursements, and the qualifying services for the trust accounts,
36 shall be established by the governing board. Individual trust accounts
37 are separate accounts within the developmental disabilities endowment

1 trust fund, and are invested for the beneficiaries through the
2 endowment trust fund.

3 **Sec. 3.** RCW 43.330.200 and 1999 c 384 s 2 are each amended to read
4 as follows:

5 (1) The developmental disabilities endowment trust fund is created
6 in the custody of the state treasurer. Expenditures from the fund may
7 be used only for the purposes of the developmental disabilities
8 endowment established under this chapter, except for expenses of the
9 state investment board and the state treasurer as specified in
10 subsection (2) of this section. Only the developmental disabilities
11 endowment governing board or the board's designee may authorize
12 expenditures from the fund. The fund shall retain its interest
13 earnings in accordance with RCW 43.79A.040.

14 (2) The developmental disabilities endowment governing board shall
15 deposit in the fund all money received for the program, including state
16 appropriations and private (~~matching~~) contributions. With the
17 exception of investment and operating costs associated with the
18 investment of money by the (~~state treasurer and the~~) investment board
19 paid under RCW (~~43.08.190, 43.79A.040,~~) 43.33A.160(~~(7)~~) and 43.84.160
20 and the expenses and operating costs of the state treasurer paid under
21 RCW 43.08.190 and 43.79A.040, the fund shall be credited with all
22 investment income earned by the fund. Disbursements from the fund are
23 exempt from appropriations and the allotment provisions of chapter
24 43.88 RCW. However, money used for program administration by the
25 department or the governing board is subject to the allotment and
26 budgetary controls of chapter 43.88 RCW, and an appropriation is
27 required for these expenditures.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330 RCW
29 to read as follows:

30 (1) The state investment board has the full power to invest,
31 reinvest, manage, contract, sell, or exchange investment money in the
32 developmental disabilities endowment trust fund. All investment and
33 operating costs associated with the investment of money shall be paid
34 under RCW 43.33A.160 and 43.84.160. With the exception of these
35 expenses, the earnings from the investment of the money shall be
36 retained by the fund.

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

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

8 (4) The authority to establish all policies relating to the fund,
9 other than the investment policies as set forth in subsections (1)
10 through (3) of this section, resides with the governing board acting in
11 accordance with the principles set forth in RCW 43.330.220. With the
12 exception of expenses of the state treasurer in RCW 43.330.200 and the
13 investment board set forth in subsection (1) of this section,
14 disbursements from the fund shall be made only on the authorization of
15 the governing board or the board's designee, and money in the fund may
16 be spent only for the purposes of the developmental disabilities
17 endowment program as specified in this chapter.

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

21 **Sec. 5.** RCW 43.330.210 and 1999 c 384 s 4 are each amended to read
22 as follows:

23 The developmental disabilities endowment governing board is
24 established to design and administer the developmental disabilities
25 endowment. To the extent funds are appropriated for this purpose, the
26 director of the department of community, trade, and economic
27 development shall provide staff and administrative support to the
28 governing board.

29 (1) The governing board shall consist of seven members as follows:

30 (a) Three of the members, who shall be appointed by the governor,
31 shall be persons who have demonstrated expertise and leadership in
32 areas such as finance, actuarial science, management, business, or
33 public policy.

34 (b) Three members of the board, who shall be appointed by the
35 governor, shall be persons who have demonstrated expertise and
36 leadership in areas such as business, developmental disabilities
37 service design, management, or public policy, and shall be family
38 members of persons with developmental disabilities.

1 (c) The seventh member of the board, who shall serve as chair of
2 the board, shall be appointed by the remaining six members of the
3 board.

4 (2) Members of the board shall serve terms of four years and may be
5 appointed for successive terms of four years at the discretion of the
6 appointing authority. However, the governor may stagger the terms of
7 the initial six members of the board so that approximately one-fourth
8 of the members' terms expire each year.

9 (3) Members of the board shall be compensated for their service
10 under RCW 43.03.240 and shall be reimbursed for travel expenses as
11 provided in RCW 43.03.050 and 43.03.060.

12 (4) The board shall meet periodically as specified by the call of
13 the chair, or a majority of the board.

14 (5) Members of the governing board and the state investment board
15 shall not be considered an insurer of the funds or assets of the
16 endowment trust fund or the individual trust accounts. Neither of
17 these two boards or their members shall be liable for the action or
18 inactions of the other.

19 (6) Members of the governing board and the state investment board
20 are not liable to the state, to the fund, or to any other person as a
21 result of their activities as members, whether ministerial or
22 discretionary, except for willful dishonesty or intentional violations
23 of law. The department and the state investment board, respectively,
24 may purchase liability insurance for members.

25 **Sec. 6.** RCW 43.330.220 and 1999 c 384 s 5 are each amended to read
26 as follows:

27 The design, implementation, and administration of the developmental
28 disabilities endowment shall be governed by the following principles:

29 (1) The design and operation of the endowment should reward
30 families who set aside resources for their child's future care and
31 provide incentives for continued caregiving by the family.

32 (2) The endowment should encourage financial planning and reward
33 caregiving by a broad range of families, not just those who have
34 substantial financial resources.

35 (3) Families should not feel compelled to contribute to the
36 endowment in order to meet the needs of continuing care for their
37 child.

1 (4) All families should have equal access to developmental
2 disabilities services not funded through the endowment regardless of
3 whether they contribute to the endowment.

4 (5) Services funded through the endowment should be stable,
5 ongoing, of reasonable quality, and respectful of individual and family
6 preferences.

7 (6) Endowment resources should be expended economically in order to
8 benefit as many families as possible.

9 (7) Endowment resources should be managed prudently so that
10 families can be confident that their agreement with the endowment on
11 behalf of their child will be honored.

12 (8) The private financial contribution on behalf of each person
13 receiving services from the endowment shall be at least equal to the
14 state's contribution to the endowment.

15 (9) In order to be matched with funding from the state's
16 contribution to the endowment, the private contribution on behalf of a
17 beneficiary must be sufficient to support the beneficiary's approved
18 service plan for a significant portion of the beneficiary's anticipated
19 remaining lifetime.

20 (10) The rate that state appropriations to the endowment are used
21 to match private contributions shall be such that each legislative
22 appropriation to the developmental disabilities endowment trust fund,
23 including principal and investment income, is not depleted in a period
24 of less than five years.

25 (11) Private contributions made on behalf of a particular
26 individual, and the associated state match, shall only be used for
27 services provided upon that person's behalf.

28 (12) State funds contributed to the developmental disabilities
29 endowment trust fund are to support the individual trust accounts
30 established by individual private contributions made by families or
31 other interested persons for named individual beneficiaries.

32 (13) The governing board shall explore methods to solicit private
33 donations. The governing board shall explore mechanisms to support
34 individuals with developmental disabilities who do not have individual
35 private contributions made on their behalf. The governing board shall
36 establish policies for the use of any private donations.

37 (14) Types of services funded by money managed through the
38 developmental disabilities endowment trust fund shall be approved by
39 the governing board or its designee.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.330 RCW
2 to read as follows:

3 To the extent funds are appropriated for this purpose, the
4 governing board shall contract with an appropriate organization for the
5 development of a proposed operating plan for the developmental
6 disabilities endowment program. The proposed operating plan shall be
7 consistent with the endowment principles specified in RCW 43.330.220.
8 The plan shall address at least the following elements:

9 (1) The recommended types of services to be available through the
10 endowment program and their projected average costs per beneficiary;

11 (2) An assessment of the number of people likely to apply for
12 participation in the endowment under alternative rates of matching
13 funds, minimum service year requirements, and contribution timing
14 approaches;

15 (3) An actuarial analysis of the number of disabled beneficiaries
16 who are likely to be supported under alternative levels of public
17 contribution to the endowment, and the length of time the beneficiaries
18 are likely to be served, under alternative rates of matching funds,
19 minimum service year requirements, and contribution timing approaches;

20 (4) Recommended eligibility criteria for participation in the
21 endowment program;

22 (5) Recommended policies regarding withdrawal of private
23 contributions from the endowment in cases of movement out of state,
24 death of the beneficiary, or other circumstances;

25 (6) Recommended matching rate of public and private contributions
26 and, for each beneficiary, the maximum annual and lifetime amount of
27 private contributions eligible for public matching funds;

28 (7) The recommended minimum years of service on behalf of a
29 beneficiary that must be supported by private contributions in order
30 for the contributions to qualify for public matching funds from the
31 endowment;

32 (8) The recommended schedule according to which lump sum or
33 periodic private contributions should be made to the endowment in order
34 to qualify for public matching funds;

35 (9) A recommended program for educating families about the
36 endowment, and about planning for their child's long-term future; and

37 (10) Recommended criteria and procedure for selecting an
38 organization or organizations to administer the developmental
39 disabilities endowment program, and projected administrative costs.

1 **Sec. 8.** RCW 43.330.230 and 1999 c 384 s 7 are each amended to read
2 as follows:

3 Based on the proposed operating plan under section ((6)) 7 of this
4 act, and to the extent funds are appropriated for this purpose, the
5 developmental disabilities endowment governing board shall implement
6 and administer, or contract for the administration of, the
7 developmental disabilities endowment program under the principles
8 specified in RCW 43.330.220. By ((October)) December 1, 2000, and
9 prior to implementation, the final program design shall be submitted to
10 the appropriate committees of the legislature.

11 The secretary of the department of social and health services shall
12 seek to maximize federal reimbursement and matching funds for
13 expenditures made under the endowment program, and shall seek waivers
14 from federal requirements as necessary for the receipt of federal
15 funds.

16 The governing board may receive gifts, grants, and endowments from
17 public or private sources as may be made from time to time, in trust or
18 otherwise, for the use and benefit of the purposes of the endowment
19 program and may expend the gifts, grants, and endowments according to
20 their terms.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.330 RCW
22 to read as follows:

23 The department of community, trade, and economic development shall
24 adopt rules for the implementation of policies established by the
25 governing board in RCW 43.330.200 through 43.330.230 and sections 4 and
26 7 of this act. Such rules will be consistent with those statutes and
27 chapter 34.05 RCW.

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