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SENATE BILL 6744

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State of Washington

58th Legislature

2004 Regular Session

By Senators Benton and Kohl-Welles

Read first time 03/01/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to a loan repayment endowment program for attorneys  
2 who provide legal services in public interest areas of the law;  
3 reenacting and 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.

17 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly

1 requires otherwise, the definitions in this section apply throughout  
2 this chapter.

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

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

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

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

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

17 (b) Permanent full-time employment in the state of Washington; or

18 (c) Registration to vote for state officials in the state of  
19 Washington.

20 (5) "Forgiven" or "to forgive" or "forgiveness" means to render  
21 legal services in a public interest area of the law in the state of  
22 Washington in lieu of monetary repayment.

23 (6) "Licensed attorney" means an attorney who has successfully  
24 passed the Washington state bar exam and been admitted to practice in  
25 the state of Washington or has otherwise been licensed to practice law  
26 in the state of Washington by the Washington state bar association and  
27 who resides in the state of Washington.

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

31 (8) "Participant" means a licensed attorney who has received a loan  
32 repayment award and has commenced practice as a licensed attorney in  
33 Washington in a public interest area of the law.

34 (9) "Program" means the public interest attorney loan repayment  
35 program.

36 (10) "Public interest area of the law" means those areas of the law  
37 determined by the board in consultation with the advisory committee to  
38 serve the public interest including, but not limited to:

1 (a) Providing direct legal service at a legal services  
2 organization, the attorney general's office, prosecuting attorneys'  
3 offices, or criminal public defender association or program;

4 (b) Providing indirect legal services at a legal services  
5 organization, the attorney general's office, prosecuting attorneys'  
6 association, or criminal public defender association or program; or

7 (c) Practicing in some other capacity that the advisory committee  
8 determines serves the public interest.

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

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

14 NEW SECTION. **Sec. 3.** PROGRAM--DUTIES OF BOARD. The public  
15 interest attorney loan repayment program is established for licensed  
16 attorneys who practice or agree to practice in public interest areas of  
17 the law in the state of Washington. No state funds shall be used by  
18 the board in administering the program. In administering this program,  
19 once the balance in the public interest attorney loan repayment  
20 endowment account is five hundred thousand dollars from private  
21 sources, the board shall establish an advisory committee. The  
22 committee may include, but is not limited to, one representative from  
23 the Washington state bar association, one representative from the  
24 access to justice board, and up to two representatives from each of the  
25 law schools located in the state of Washington. The advisory committee  
26 shall also include one law student representative from each law school  
27 in the state.

28 (1) The advisory committee shall advise the board in performing the  
29 following duties:

30 (a) Adopting rules and developing guidelines to administer the  
31 program;

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

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

1 (2) The advisory committee shall publicize the program and solicit  
2 grants and donations from public and private sources for the program,  
3 to be accepted by the board and deposited into the public interest  
4 attorney loan repayment endowment account.

5 (3) The advisory committee shall select licensed attorneys to  
6 participate in the loan repayment program. In selecting eligible  
7 participants, the committee may consider the following criteria:

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

10 (b) The financial need of the applicant;

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

13 (d) A declared interest by the applicant to practice in rural areas  
14 of the state of Washington where the need for public interest attorneys  
15 is high;

16 (e) The scholastic achievements of the applicant; and

17 (f) Any other criteria the committee deems relevant to the  
18 selection process.

19 NEW SECTION. **Sec. 4.** LOAN REPAYMENT--REQUIRED SERVICE OBLIGATION.

20 The board shall establish loan repayments for licensed attorneys who  
21 practice in a public interest area of the law. The amount of the loan  
22 repayment shall not exceed fifteen thousand dollars per year for a  
23 maximum of five years per individual. Participants incur an obligation  
24 to repay the loan under section 6 of this act unless they practice for  
25 one year in a public interest area of the law for each year of loan  
26 repayment received.

27 NEW SECTION. **Sec. 5.** LOAN REPAYMENT AWARDS. (1) The board may

28 grant loan repayment awards to eligible participants from the funds  
29 appropriated for this purpose, or from any private or public funds  
30 deposited in the public interest attorney loan repayment endowment  
31 account.

32 (2) Funds appropriated for the program, including reasonable  
33 administrative costs, may be used by the board for the purposes of loan  
34 repayments. The board shall annually establish the total amount of  
35 funding to be awarded for loan repayments and such allocations shall be  
36 established based upon the best use of funding for that year.

1            NEW SECTION.    **Sec.    6.**    PARTICIPANT        OBLIGATION--REPAYMENT

2    OBLIGATION.        Participants in the public interest attorney loan  
3    repayment program who are awarded loan repayments shall receive payment  
4    from the program for the purpose of repaying educational loans secured  
5    while attending a program of legal training that led to a license to  
6    practice law in the state of Washington.

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

9            (2) Repayment shall be limited to eligible educational and living  
10    expenses as determined by the board and shall include principal and  
11    interest.

12           (3) Loans from both government and private sources may be repaid by  
13    the program. Participants shall agree to allow the board access to  
14    loan records and to acquire information from lenders necessary to  
15    verify eligibility and to determine payments. Loans may not be  
16    renegotiated with lenders to accelerate repayment.

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

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

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

33           (7) The board is responsible for the collection of payments made on  
34    behalf of participants from the participants who discontinue service  
35    before completion of the required service obligation. The board shall  
36    exercise due diligence in collection, maintaining all necessary records  
37    to ensure that the maximum amount of payment made on behalf of the

1 participant is recovered. Collection under this section shall be  
2 pursued using the full extent of the law, including wage garnishment if  
3 necessary.

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

7 NEW SECTION. **Sec. 7.** PUBLIC INTEREST ATTORNEY LOAN REPAYMENT

8 ENDOWMENT ACCOUNT. (1) The public interest attorney loan repayment  
9 endowment account is created in the custody of the state treasurer.  
10 The account shall be a nontreasury account retaining its interest  
11 earnings in accordance with RCW 43.79A.040.

12 (2) The board shall deposit in the account all money received for  
13 the program. The account shall be self-sustaining and consist of  
14 private contributions to the program and receipts from participant  
15 repayments. No state funds shall be deposited in the account or  
16 otherwise expended therefor.

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

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

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

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

34 NEW SECTION. **Sec. 8.** POWERS AND DUTIES OF THE INVESTMENT BOARD.

35 (1) The investment board has the full power to invest, reinvest,  
36 manage, contract, sell, or exchange investment money in the account.

1 All investment and operating costs associated with the investment of  
2 money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the  
3 exception of these expenses, the earnings from the investment of the  
4 money shall be retained by the account.

5 (2) All investments made by the investment board shall be made with  
6 the exercise of that degree of judgment and care pursuant to RCW  
7 43.33A.140 and the investment policy established by the state  
8 investment board.

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

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

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

22 NEW SECTION. **Sec. 9.** TRANSFER OF PROGRAM ADMINISTRATION. After  
23 consulting with the board, the governor may transfer the administration  
24 of this program to another agency with an appropriate mission.

25 **Sec. 10.** RCW 43.79A.040 and 2003 c 403 s 9, 2003 c 313 s 10, 2003  
26 c 191 s 7, 2003 c 148 s 15, 2003 c 92 s 8, and 2003 c 19 s 12 are each  
27 reenacted and amended to read as follows:

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

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

35 (3) The investment income account may be utilized for the payment  
36 of purchased banking services on behalf of treasurer's trust funds

1 including, but not limited to, depository, safekeeping, and  
2 disbursement functions for the state treasurer or affected state  
3 agencies. The investment income account is subject in all respects to  
4 chapter 43.88 RCW, but no appropriation is required for payments to  
5 financial institutions. Payments shall occur prior to distribution of  
6 earnings set forth in subsection (4) of this section.

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

10 (b) The following accounts and funds shall receive their  
11 proportionate share of earnings based upon each account's or fund's  
12 average daily balance for the period: The Washington promise  
13 scholarship account, the college savings program account, the  
14 Washington advanced college tuition payment program account, the  
15 agricultural local fund, the American Indian scholarship endowment  
16 fund, the students with dependents grant account, the basic health plan  
17 self-insurance reserve account, the contract harvesting revolving  
18 account, the Washington state combined fund drive account, the  
19 Washington international exchange scholarship endowment fund, the  
20 developmental disabilities endowment trust fund, the energy account,  
21 the fair fund, the fruit and vegetable inspection account, the game  
22 farm alternative account, the grain inspection revolving fund, the  
23 juvenile accountability incentive account, the law enforcement  
24 officers' and fire fighters' plan 2 expense fund, the local tourism  
25 promotion account, the produce railcar pool account, the public  
26 interest attorney loan repayment account, the rural rehabilitation  
27 account, the stadium and exhibition center account, the youth athletic  
28 facility account, the self-insurance revolving fund, the sulfur dioxide  
29 abatement account, and the children's trust fund(~~(, and the investing~~  
30 ~~in innovation account)~~). However, the earnings to be distributed shall  
31 first be reduced by the allocation to the state treasurer's service  
32 fund pursuant to RCW 43.08.190.

33 (c) The following accounts and funds shall receive eighty percent  
34 of their proportionate share of earnings based upon each account's or  
35 fund's average daily balance for the period: The advanced right of way  
36 revolving fund, the advanced environmental mitigation revolving  
37 account, the city and county advance right-of-way revolving fund, the



1 federal narcotics asset forfeitures account, the high occupancy vehicle  
2 account, the local rail service assistance account, and the  
3 miscellaneous transportation programs account.

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

7 NEW SECTION. **Sec. 11.** CAPTIONS NOT LAW. Captions used in this  
8 act are not any part of the law.

9 NEW SECTION. **Sec. 12.** Sections 1 through 9 and 11 of this act  
10 constitute a new chapter in Title 28B RCW.

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