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**SUBSTITUTE SENATE BILL 6221**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Walsh and Darneille; by request of Department of Commerce)

AN ACT Relating to the Washington achieving a better life experience program account; and amending RCW 43.330.460, 43.330.462, and 43.330.464.

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

**Sec.**  RCW 43.330.460 and 2016 c 39 s 1 are each amended to read as follows:

The definitions in this section apply throughout RCW 43.330.462 through 43.330.468 unless the context clearly indicates otherwise.

(1) "Eligible individual" means an individual eligible for the Washington achieving a better life experience program pursuant to section 529A of the federal internal revenue code of 1986, as amended.

(2) "Governing board" means the Washington achieving a better life experience program governing board in RCW 43.330.466.

(3) "Individual Washington achieving a better life experience program account" means an account established by or for an eligible individual and owned by the eligible individual pursuant to the Washington achieving a better life experience program. Any moneys placed in these accounts or achieving a better life experience program accounts established in other states shall not be counted as assets for purposes of state or local means tested program eligibility or levels of state means tested program eligibility.

(4) "Washington achieving a better life experience program" means a savings or investment program that establishes individual Washington achieving a better life experience program accounts pursuant to section 529A of the federal internal revenue code of 1986, as amended.

(5) "Washington achieving a better life experience program account" means the account created in RCW 43.330.462(1), to be used only for purposes of Washington achieving a better life experience program administration and operation.

**Sec.**  RCW 43.330.462 and 2016 c 39 s 2 are each amended to read as follows:

(1) The Washington achieving a better life experience program account is created in the custody of the state treasurer. Expenditures from the account may be used only for the purposes of administrative and operating expenses of the Washington achieving a better life experience program established under this chapter, except for expenses of the state investment board and the state treasurer as specified in this section. ((~~The account must be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.~~))

(2) The account must be self-sustaining ((~~and consist of~~)), include payments received from contributors to individual Washington achieving a better life experience program accounts((~~. All payments contributed to the Washington achieving a better life experience program are~~)), held in trust, and ((~~must be deposited in the account. With the exception of investment and operating costs associated with the investment of money paid under RCW 43.08.190, 43.33A.160, and 43.84.160, the account~~)) must be credited with ((~~all investment~~)) income earned by the account, and contributions to individual Washington achieving a better life experience program accounts may be invested in self-directed investment options. All self-directed investment options must comply with section 529A of the federal internal revenue code of 1986, as amended. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. An appropriation is not required for expenditures.

(3) The assets of the account may be spent without appropriation for the purpose of making payments to individual Washington achieving a better life experience program account holders. Only the Washington achieving a better life experience governing board or the board's designee may authorize expenditures from the account.

(4) With regard to the assets of the account, the state acts in a fiduciary, not ownership, capacity. Therefore, the assets of the account are not considered state money, common cash, or revenue to the state.

**Sec.**  RCW 43.330.464 and 2016 c 39 s 3 are each amended to read as follows:

(1) The governing board may elect to have the state investment board or investment manager invest the money in the Washington achieving a better life experience program account. If the governing board so elects, the state investment board created in RCW 43.33A.020 or the investment manager has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the Washington achieving a better life experience program account. All investment and operating costs associated with the investment of money by the state investment board must be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money must be retained by the account.

(2)(a) After consultation with the governing board, the state investment board or investment manager may elect to invest any self-directed accounts associated with the Washington achieving a better life experience program. The state investment board or investment manager has full authority to invest all self-directed investment moneys in accordance with this section and RCW 43.84.150. In carrying out this authority the state investment board or investment manager, after consultation with the governing board regarding any recommendations, shall provide a set of options for eligible individuals to choose from for self-directed investment. Any self-directed investment options provided must comply with section 529A of the federal internal revenue code of 1986, as amended.

(b) All investment and operating costs of the state investment board or investment manager associated with making self-directed investments must be paid by eligible individuals and recovered under procedures agreed to by the governing board and the state investment board ((~~pursuant to~~)) or investment manager consistent with the principles set forth in RCW 43.33A.160. All other expenses caused by self-directed investments must be paid by the eligible individual in accordance with rules established by the governing board. With the exception of these expenses, all earnings from self-directed investments shall accrue to the eligible individual's Washington achieving a better life experience program account.

(c)(i) The governing board shall keep or cause to be kept full and adequate accounts and records of each eligible individual Washington achieving a better life experience program account.

(ii) The governing board shall account for and report on the investment of self-directed assets or may enter into an agreement with the ((~~state investment board~~)) recordkeepers for such accounting and reporting under this chapter.

(iii) The governing board's duties related to eligible individual Washington achieving a better life experience program accounts include conducting or causing to be conducted, the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

(iv) The governing board has sole responsibility for contracting with any recordkeepers for individual Washington achieving a better life experience program accounts and shall manage the performance of recordkeepers under those contracts.

(v) The ((~~state investment~~)) governing board has sole responsibility for contracting with outside investment firms to provide investment management for the individual Washington achieving a better life experience program accounts and shall manage the performance of investment managers under those contracts.

((~~(vi) The department has sole responsibility for contracting with any recordkeepers for individual participant accounts and shall manage the performance of recordkeepers under those contracts.~~))

(d) The ((~~state treasurer~~)) governing board shall designate and define the terms of engagement for the custodial banks under authority that the state treasurer shall delegate pursuant to RCW 43.08.015 with the concurrence of the office of financial management.

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

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

(5) The authority to establish all policies relating to the account((~~, other than the investment policies,~~)) resides with the governing board acting to implement, design, and manage the Washington achieving a better life experience savings program that allows eligible individuals to create and maintain savings accounts. The moneys in the account may be spent only for the purposes of the Washington achieving a better life experience program.

(6) The ((~~state investment board~~)) investment manager shall routinely consult and communicate with the governing board on the investment policy, earnings of the account, and related needs of the program.

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