

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6233

56th Legislature
2000 Regular Session

Passed by the Senate February 9, 2000
YEAS 48 NAYS 0

CERTIFICATE

President of the Senate

Passed by the House March 1, 2000
YEAS 98 NAYS 0

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6233** as passed by the Senate and the House of Representatives on the dates hereon set forth.

**Speaker of the
House of Representatives**

Secretary

**Speaker of the
House of Representatives**

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6233

Passed Legislature - 2000 Regular Session

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.

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

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

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

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

The establishment of this endowment is not intended to diminish the state's responsibility for

funding services currently available to future endowment participants, subject to available funding, nor is it the intent of the legislature, by the creation of this public/private endowment, to impose additional, unintended financial liabilities on the public.

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

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

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

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

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

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

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

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

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

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

(1) The state investment board has the full power to invest, reinvest, manage, contract, sell,

or exchange investment money in the developmental disabilities endowment trust fund. All investment and operating costs associated with the investment of money shall be paid under RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) An assessment of the number of people likely to apply for participation in the endowment

under alternative rates of matching funds, minimum service year requirements, and contribution timing approaches;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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