
ENGROSSED SUBSTITUTE SENATE BILL 6096

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Becker, Litzow, Parlette, Bailey, Hill, Fain, Dammeier, Brown, Rivers, Roach, and McAuliffe)

READ FIRST TIME 04/07/15.

1 AN ACT Relating to cancer research; adding a new chapter to Title
2 43 RCW; and providing an expiration date.

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

4 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
5 finds the following:

6 (a) Washington has an existing infrastructure of world-class
7 cancer research and care centers for children and adults that can
8 develop and apply new techniques for the prevention of cancer and
9 care of cancer patients throughout Washington;

10 (b) Sustained investment in cancer research, prevention, and care
11 is critical to reducing long-term health costs, saving lives, and
12 relieving pain and suffering;

13 (c) Promoting the health of state residents is a fundamental
14 public purpose and governmental function. Action to promote cancer
15 research and prevention to improve the quality of life of the people
16 of Washington is consistent with this fundamental public purpose; and

17 (d) Additional public resources dedicated exclusively to cancer
18 research will provide sustained investment in cancer research to the
19 benefit of the people of Washington.

20 (2) It is the intent of the legislature in enacting this act to:

1 (a) Optimize the use of public funds by giving priority to
2 research utilizing the best science and technology with the greatest
3 potential to improve health outcomes;

4 (b) Increase the value of our public investments by leveraging
5 our state's existing cancer research facilities and talent, as well
6 as clinical and therapeutic resources;

7 (c) Incentivize additional investment by requiring private or
8 other nonstate resources to match public funds;

9 (d) Protect and benefit Washington taxpayers by funding proposals
10 for cancer research that are reviewed by an independent scientific
11 panel;

12 (e) Require fiscal and public accountability through independent
13 audits, open public meetings and hearings, and annual reports to the
14 public; and

15 (f) Create jobs and encourage investments that will generate new
16 tax revenues in our state, and advance the biotech, medical device,
17 and health care information technology industries in Washington.

18 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
19 section apply throughout this chapter unless the context clearly
20 requires otherwise.

21 (1) "Authority" means the cancer research endowment authority
22 created in this chapter.

23 (2) "Board" means the governing board of the authority.

24 (3) "Cancer" means a group of diseases involving unregulated cell
25 growth.

26 (4) "Cancer patient advocacy organizations" means groups with
27 offices in the state that promote cancer prevention and advocate on
28 behalf of cancer patients.

29 (5) "Cancer research" means advanced and applied research and
30 development relating to the causes, prevention, and diagnosis of
31 cancer and care of cancer patients including the development of
32 tests, genetic analysis, medications, processes, services, and
33 technologies to optimize cancer therapies and their manufacture and
34 commercialization and includes the costs of recruiting scientists and
35 establishing and equipping research facilities.

36 (6) "CARE fund" or "fund" means the cancer research endowment
37 fund created in section 7(1)(b) of this act.

1 (7) "Commercial entity" means a for-profit entity located in the
2 state that develops, manufactures, or sells goods or services
3 relating to cancer prevention or care.

4 (8) "Committee" means an independent expert scientific review and
5 advisory committee established under section 6 of this act.

6 (9) "Contribution agreement" means any agreement authorized under
7 this chapter in which a private entity or a public entity other than
8 the state agrees to provide to the authority contributions for the
9 purpose of cancer research, prevention, or care.

10 (10) "Costs" means the costs and expenses associated with the
11 conduct of research, prevention, and care including, but not limited
12 to, the cost of recruiting and compensating personnel, securing and
13 financing facilities and equipment, and conducting clinical trials.

14 (11) "Department" means the department of commerce.

15 (12) "Health care delivery system" means hospitals and clinics
16 providing care to patients in the state.

17 (13) "Life sciences research" means advanced and applied research
18 and development intended to improve human health, including
19 scientific study of the developing brain and human learning and
20 development, and other areas of scientific research and development
21 vital to the state's economy.

22 (14) "Prevention" means measures to prevent the development and
23 progression of cancer, including education, vaccinations, and
24 screening processes and technologies, and to reduce the risk of
25 cancer.

26 (15) "Program" means the cancer research endowment program
27 created in section 5 of this act.

28 (16) "Program administrator" means a private nonprofit
29 corporation qualified as a tax-exempt entity under 26 U.S.C. Sec.
30 501(c)(3) of the federal internal revenue code, with expertise in
31 conducting or managing research granting activities, funds, or
32 organizations.

33 NEW SECTION. **Sec. 3.** CANCER RESEARCH ENDOWMENT AUTHORITY. (1)

34 The cancer research endowment authority is created. The powers of the
35 authority are vested in and must be exercised by a board. The board
36 consists of thirteen members appointed by the governor:

37 (a) Two members must be appointed from nominations submitted by
38 the presidents of the University of Washington and Washington State
39 University;

1 (b) Two members must be appointed from nominations submitted by
2 the Fred Hutchinson cancer research center, Seattle cancer care
3 alliance, and the Seattle children's research institute;

4 (c) Two members must be appointed from nominations submitted by
5 patient advocacy organizations;

6 (d) Two members must be appointed from nominations submitted by
7 representatives of businesses or industries engaged in the
8 commercialization of life sciences research or cancer research;

9 (e) One member must be appointed from a list of at least three
10 nominated by the speaker of the house of representatives;

11 (f) One member must be appointed from a list of at least three
12 nominated by the president of the senate;

13 (g) One member must be appointed from nominations submitted by
14 entities or systems that provide health care delivery services;

15 (h) One member from nominations provided by private sector donors
16 to the fund. However, the governor may reject all nominations and
17 request a new list from which the governor must select the member;
18 and

19 (i) The remaining member must be a member of the public.

20 (2) In soliciting nominations and appointing members, the
21 governor must seek to identify individuals from throughout the state
22 having relevant knowledge, experience, and expertise with regard to
23 (a) cancer research, prevention, and care; (b) health care consumer
24 issues; (c) government finance and budget; and (d) the
25 commercialization of life sciences or cancer research. In soliciting
26 nominations and appointing members, the governor must seek
27 individuals who will contribute to the geographic diversity of the
28 board, with the goal that at least five board members be from
29 counties with a population less than one million persons.
30 Appointments must be made on or before July 1, 2016.

31 (3) The term of a member is four years from the date of their
32 appointment except the initial term of the members in subsection
33 (1)(d) through (i) of this section must be two years to create a
34 staggered appointment process. A member may be appointed to not more
35 than two full consecutive terms. A member appointed by the governor
36 may be removed by the governor for cause under RCW 43.06.070 and
37 43.06.080. The members may not be compensated but may be reimbursed,
38 solely from the fund, for expenses incurred in the discharge of their
39 duties under this chapter.

40 (4) Seven members of the board constitute a quorum.

1 (5) The members must elect a chair, treasurer, and secretary
2 annually, and other officers as the members determine necessary, and
3 may adopt bylaws or rules for their own government.

4 (6) Meetings of the board must be held in accordance with the
5 open public meetings act, chapter 42.30 RCW, and at the call of the
6 chair or when a majority of the members so requests. Meetings of the
7 board may be held at any location within or out of the state, and
8 members may participate in a meeting of the board by means of a
9 conference telephone or similar communication equipment under RCW
10 23B.08.200.

11 NEW SECTION. **Sec. 4.** AUTHORITY—GENERAL POWERS. The authority
12 has all the general powers necessary to carry out its purposes and
13 duties and to exercise its specific powers. In addition to other
14 powers specified in this chapter, the authority may:

15 (1) Sue and be sued in its own name;

16 (2) Make and execute agreements, contracts, and other
17 instruments, with any public or private person or entity, including
18 commercial entities, in accordance with this chapter;

19 (3) Employ, contract with, or engage independent counsel,
20 financial advisors, auditors, other technical or professional
21 assistants, and such other personnel as are necessary or desirable to
22 implement this chapter;

23 (4) Exercise any other power reasonably required to implement the
24 purposes of this chapter; and

25 (5) Delegate any of its powers and duties if consistent with the
26 purposes of this chapter.

27 NEW SECTION. **Sec. 5.** CANCER RESEARCH ENDOWMENT PROGRAM. (1) The
28 cancer research endowment program is created. The purpose of the
29 program is to make grants to public and private entities, including
30 commercial entities, to fund or reimburse the entities pursuant to
31 agreement for the promotion of cancer research to be conducted in the
32 state. The authority is to oversee and guide the program, including
33 the solicitation, selection, and award of grants.

34 (2) The board must develop a plan for the allocation of projected
35 amounts in the CARE fund, which it must update annually, following at
36 least one annual public hearing. The plan must provide for
37 appropriate funding continuity and take into account the projected

1 speed at which revenues will be available and amounts that can be
2 spent during the plan period.

3 (3) The authority must solicit requests for grant funding and
4 evaluate the requests by reference to factors such as: (a) The
5 quality of the proposed research or program; (b) its potential to
6 improve health outcomes of persons with cancer, with particular
7 attention to the likelihood that it will also lower health care
8 costs, substitute for a more costly diagnostic or treatment modality,
9 or offer a breakthrough treatment for a particular cancer or cancer-
10 related condition or disease; (c) its potential for leveraging
11 additional funding; (d) its potential to provide additional health
12 care benefits or benefit other human diseases or conditions; (e) its
13 potential to stimulate life science, health care, and biomedical
14 employment in the state; (f) the geographic diversity of the grantees
15 within Washington; (g) evidence of potential royalty, sales, or
16 licensing revenue, or other commercialization-related revenue and
17 contractual means to recapture such income for purposes of this
18 chapter; and (h) evidence of public and private collaboration.

19 (4) The authority may not award a grant for a proposal that was
20 not recommended by an independent expert scientific review and
21 advisory committee under section 6 of this act.

22 (5) The authority must issue an annual report to the public that
23 sets forth its activities with respect to the CARE fund, including
24 grants awarded, grant-funded work in progress, research
25 accomplishments, prevention, and care activities, and future program
26 directions with respect to cancer research, prevention, and care.
27 Each annual report regarding activities of the cancer research
28 endowment program and CARE fund must include, but not be limited to,
29 the following: The number and dollar amounts of grants; the grantees
30 for the prior year; the authority's administrative expenses; an
31 assessment of the availability of funding for cancer research,
32 prevention, and care from sources other than the authority; a summary
33 of research, prevention, and care-related findings, including
34 promising new areas for investment; and a report on the benefits to
35 Washington of its programs to date.

36 (6) The authority's first annual report must include a proposed
37 operating plan for the design, implementation, and administration of
38 an endowment program supporting the purposes of the authority and
39 program.

1 (7) The authority must adopt policies to ensure that all
2 potential conflicts have been disclosed and that all conflicts have
3 been eliminated or mitigated.

4 (8) The authority must establish standards to ensure that
5 recipients of grants for cancer research, prevention, or care
6 purchase goods and services from Washington suppliers to the extent
7 reasonably possible.

8 NEW SECTION. **Sec. 6.** INDEPENDENT EXPERT SCIENTIFIC REVIEW AND
9 ADVISORY COMMITTEE. (1) In addition to any advisory boards the
10 authority determines to establish, the authority must establish one
11 or more independent expert scientific review and advisory committees
12 for the purposes of evaluating grant proposals for cancer research
13 and recommending grants to be made from the CARE fund; advising the
14 authority during the development and review of its strategic plans
15 for cancer research; and advising the authority on scientific and
16 other matters in furtherance of the cancer research purposes of this
17 act.

18 (2) Each independent expert scientific review and advisory
19 committee must consist of individuals with nationally recognized
20 expertise in the scientific, clinical, ethical, commercial, and
21 regulatory aspects of cancer research, prevention, and care. The
22 board must appoint the members of the committee. Preliminary review
23 of grant proposals may be made by a panel of such committee or an
24 independent contractor chosen by the board upon recommendation of the
25 committee, but all recommendations for grants to be made from the
26 CARE fund may be made only upon majority vote of the committee.

27 NEW SECTION. **Sec. 7.** PROGRAM ADMINISTRATOR. (1) The program
28 administrator must provide services to the board and has the
29 following duties and responsibilities:

30 (a) Jointly with the board, solicit and receive gifts, grants,
31 and bequests, and enter into contribution agreements with private
32 entities and public entities, including commercial entities, in order
33 to use those moneys to fund grants awarded by the authority;

34 (b) Establish a cancer research endowment fund to be known as the
35 CARE fund. The CARE fund must be a separate private account outside
36 the state treasury into which grants and contributions received from
37 public and private sources as well as state matching funds must be
38 deposited, and from which funds for grants awarded by the authority

1 must be disbursed. Once moneys in the cancer research endowment fund
2 match transfer account are subject to an agreement under section 9(6)
3 of this act and are deposited in the CARE fund under this section,
4 the moneys in the CARE fund are not considered state money, common
5 cash, or revenue to the state;

6 (c) Manage the CARE fund, its obligations, and investments as to
7 achieve the maximum possible rate of return on investment in the CARE
8 fund;

9 (d) Establish policies and procedures to facilitate the orderly
10 process of grant application, review, selection, and notification;
11 and

12 (e) Distribute CARE funds to selected entities through grant
13 agreements. Grant agreements must set forth the terms and conditions
14 of the grant and must include, but not be limited to: (i)
15 Deliverables to be provided by the recipient pursuant to the grant;
16 (ii) the circumstances under which the grant amount would be required
17 to be repaid or the circumstances under which royalty, sales, or
18 licensing revenue, or other commercialization-related revenue would
19 be required to be shared; and (iii) indemnification, dispute
20 resolution, and any other terms and conditions as are customary for
21 grant agreements or are deemed reasonable by the board. The program
22 administrator may negotiate with any grantee the costs associated
23 with performing scientific activities funded by grants.

24 (2) Periodically, but not less often than every three years, the
25 authority and the department must conduct a request for proposals and
26 retain the services of an independent auditor with experience in
27 performance auditing of research granting entities similar to the
28 authority. The independent auditor must review the authority's
29 strategic plan, program, and program administrator and publish a
30 report assessing their performance and providing recommendations for
31 improvement. The authority must hold at least one public hearing at
32 which the results of each audit are presented and discussed.

33 NEW SECTION. **Sec. 8.** CHARITABLE CONTRIBUTIONS. The program
34 administrator may create additional legal entities and take such
35 action as may be necessary or advisable to enable the CARE fund to
36 accept charitable contributions. In addition, the program
37 administrator may provide technical assistance, information, and
38 training to private employers and other potential donors to establish

1 programs that facilitate charitable contributions to the CARE fund
2 including tobacco use premium surcharge programs.

3 NEW SECTION. **Sec. 9.** CANCER RESEARCH ENDOWMENT FUND MATCH
4 TRANSFER ACCOUNT. (1) The cancer research endowment fund match
5 transfer account is created in the custody of the state treasurer as
6 a nonappropriated account to be used solely and exclusively for the
7 cancer research endowment program created in section 5 of this act.
8 The purpose of the account is to provide matching funds for the CARE
9 fund and administrative costs.

10 (2) Revenues to the account must consist of deposits into the
11 account, legislative appropriations, and any gifts, grants, or
12 donations received by the department for this purpose.

13 (3) The legislature must appropriate a state match, up to a
14 maximum of ten million dollars annually, beginning July 1, 2016, and
15 each July 1st following the end of the fiscal year from tax
16 collections and penalties generated from enforcement of state taxes
17 on cigarettes and other tobacco products by the state liquor and
18 cannabis board or other federal, state or local law or tax
19 enforcement agency, as determined by the department of revenue. Tax
20 collections include any cigarette tax, other tobacco product tax, and
21 retail sales and use tax.

22 (4) Expenditures, in the form of matching funds, from the account
23 may be made only upon receipt of proof from the program administrator
24 of nonstate or private contributions to the CARE fund for the cancer
25 research endowment program. Expenditures, in the form of matching
26 funds, may not exceed the total amount of nonstate or private
27 contributions.

28 (5) Only the director of the department or the director's
29 designee may authorize expenditures from the cancer research
30 endowment fund match transfer account. Such authorization must be
31 made as soon as practicable following receipt of proof as required
32 under subsection (4) of this section.

33 (6) The department must enter into an appropriate agreement with
34 the program administrator to demonstrate exchange of consideration
35 for the matching funds.

36 NEW SECTION. **Sec. 10.** This chapter expires July 1, 2025.

1 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act
2 constitute a new chapter in Title 43 RCW.

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