

# HOUSE BILL REPORT

## SHB 1732

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**As Passed House:**

January 19, 2022

**Title:** An act relating to delaying the implementation of the long-term services and supports trust program by 18 months to allow for the extension of benefits to persons born before January 1, 1968, by modifying conditions for becoming a qualified individual and eligible beneficiary and allowing for the refunding of prematurely collected premiums.

**Brief Description:** Delaying the implementation of the long-term services and supports trust program by 18 months.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Sullivan, Chopp, Johnson, J., Walen, Chapman, Berry, Cody, Dolan, Fey, Macri, Peterson, Ryu, Santos, Senn, Shewmake, Wylie, Simmons, Callan, Slatter, Ramos, Bergquist, Tharinger, Valdez, Thai, Pollet, Morgan, Taylor, Stonier, Ortiz-Self, Gregerson, Davis, Riccelli, Ormsby, Duerr, Orwall, Bateman, Kloba and Frame).

**Brief History:**

**Committee Activity:**

Appropriations: 1/11/22, 1/13/22 [DPS].

**Floor Activity:**

Passed House: 1/19/22, 91-6.

**Brief Summary of Substitute Bill**

- Delays the collection of premium assessments under the Long-Term Services and Supports Trust Program (Trust Program) until July 1, 2023.
- Delays the availability of approved services under the Trust Program until July 1, 2026.
- Allows persons born before January 1, 1968, who do not meet the 10-year minimum for paying Trust Program premiums to receive partial benefits based on the number of years of premium payments.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Chandler and Hoff.

**Staff:** Mary Mulholland (786-7391).

### **Background:**

In 2019 the Long-Term Services and Supports Trust Program (Trust Program) was enacted to provide long-term services and supports benefits to persons who have paid into the Trust Program for a specific amount of time and who have been assessed as needing a certain amount of assistance with activities of daily living.

Beginning January 1, 2022, the Trust Program assesses a premium of 0.58 percent on the wages of all employees in Washington. Washington residents who are at least 18 years old and who have paid the premium for either: (1) three years within the last six years; or (2) for a total of 10 years, are granted "qualified individual" status. A qualified individual may become an "eligible beneficiary" upon having been assessed as requiring assistance with at least three activities of daily living. In addition, eligible beneficiaries must be at least 18 years old and a Washington resident. Upon becoming an eligible beneficiary, a person may receive approved services in the form of benefit units that the Department of Social and Health Services pays to a long-term services and supports provider for performing services on behalf of eligible beneficiaries.

Persons who are self-insured may elect coverage under the Trust Program according to specified time frames. Employees who attest to having purchased long-term care insurance before November 1, 2021, may apply to the Employment Security Department by December 31, 2022, for an exemption from the premium assessment.

The Trust Program is administered jointly by the Department of Social and Health Services, the Employment Security Department, and the Health Care Authority. Trust Program oversight is provided by the Long-Term Services and Supports Trust Commission (Trust Commission) which includes legislators, agency directors, and representatives from Area Agencies on Aging, and stakeholders and consumers of approved services. The Trust Commission's January 1, 2022, report included a recommendation to allow persons who

retire before they reach the 10-year contribution requirement in 2032 to elect continuing coverage after retirement until they reach the 10-year minimum. The Trust Commission also considered other options for persons near retirement, including pro-rated benefits, continued premium payments until benefits are needed, opt-outs for persons over a certain age, and premium refunds.

**Summary of Substitute Bill:**

The implementation of many of the activities related to the Long-Term Services and Supports Trust Program (Trust Program) are delayed. The date for beginning the collection of premium assessments under the Trust Program for both employees and self-employed persons is delayed by 18 months from January 1, 2022, until July 1, 2023. The employer outreach program that the Employment Security Department and the Department of Social and Health Services must conduct is updated to account for the delayed collection of premium assessments. The availability of approved services under the Trust Program is delayed by 18 months from January 1, 2025, until July 1, 2026. The Department of Social and Health Services may not accept applications for eligible beneficiary determinations before July 1, 2026. The first biennial actuarial audit and valuation of the Trust Program is due July 1, 2026, rather than January 1, 2024. Premiums collected from employees before July 1, 2023, must be refunded to the employee within 120 days of collection by the employer or by the Employment Security Department through the employer.

Persons born before January 1, 1968, who do not pay the premium for the required 10 years needed to become vested in the full number of benefit units may receive partial benefits under the Trust Program. For each year that persons in this population make the premium payments for the minimum 500 hours, they may receive 10 percent of the maximum number of benefit units. Persons in this population may still qualify for full benefits if they have paid the premium for three years within the last six years.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 18, 2022.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) It is important to many people to stay in their own homes for as long as possible. The Trust Program will provide the care that people need to prevent rapid health declines and hospital stays. Access to long-term services and supports is particularly important in rural areas.

Delaying the Trust Program in statute will provide certainty to business owners. Business owners are currently struggling with whether or not to collect the Trust Program premium,

and where to put their collections if they do.

Washington is uniquely situated to implement a long-term care public insurance program due to its investments in in-home and community-based long-term services and supports. Seventy percent of people over 65 require long-term care, and three-quarters of people are not confident in their ability to pay for long-term care needs. Many people incorrectly believe that their private health insurance or Medicare will pay for long-term services and supports.

The Trust Program will generate significant Medicaid savings for the state, of which almost half are State General Fund savings. There is also the potential for a shared savings waiver with the federal Centers for Medicare and Medicaid services. It is critical for folks to have access to long-term services and supports without having to spend down their assets to the level necessary to qualify for Medicaid. The Trust Program will also make access to care more equitable. There are some concerns about the delay, since during this delay people will have less access to care.

It is important to implement recommendations from the Long-Term Services and Support's Trust Commission's 2021 report. The Legislature should consider additional changes to the Trust Program, such as portability across state lines.

(Opposed) The people of Washington have consistently expressed their opposition to the Trust Program. In 2021, many people fled to private long-term care insurance programs as the implementation date of the premium assessment approached. People want an opt-in program that requires active steps to enroll. The Legislature is not paying attention to what Washingtonians want.

**Persons Testifying:** (In support) Chris Wertenberger, National Association of Insurance and Financial Advisors, Washington; Amy Anderson, Association of Washington Business; Cathy MacCaul, AARP; Uini Lealaitafea; Laura Cepoi; Lauri St. Ours, Washington Health Care Association; Michele Horaney; Elizabeth Turnbow; Maddie Foutch, Service Employees International Union 775; Kate White Tudor, W4A; Julie Salvi, Washington Education Association; Amber Carter, Identity Clark County; and Mel Sorensen, ADP Total Source.

(Opposed) Sheldon Beddo.

**Persons Signed In To Testify But Not Testifying:** None.