

# HOUSE BILL REPORT

## ESHB 1733

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### As Passed Legislature

**Title:** An act relating to establishing voluntary exemptions to the long-term services and supports trust program for certain populations identified in the long-term services and supports trust commission's 2022 recommendations report, specifically including exemptions only for veterans with a service-connected disability of 70 percent or higher, the spouses or domestic partners of active duty service members, persons residing outside of Washington while working in Washington, and persons working in the United States under a temporary, nonimmigrant work visa.

**Brief Description:** Establishing voluntary exemptions to the long-term services and supports trust program for certain populations.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Paul, Macri, Johnson, J., Leavitt, Bronoske, Chapman, Senn, Berry, Cody, Dolan, Fey, Peterson, Ryu, Santos, Shewmake, Wylie, Simmons, Callan, Chopp, Slatter, Ramos, Bergquist, Tharinger, Valdez, Thai, Pollet, Morgan, Taylor, Stonier, Ortiz-Self, Gregerson, Riccelli, Davis, 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, 67-29.

Passed Senate: 1/26/22, 38-11.

Passed Legislature.

### **Brief Summary of Engrossed Substitute Bill**

- Establishes exemptions from the payment of premiums under the Long-Term Services and Supports Trust Program for certain veterans, spouses and registered domestic partners of military service members, nonimmigrant temporary workers, and employees who work in

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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.*

Washington and maintain a primary residence outside of Washington.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; MacEwen, Assistant Ranking Minority Member; Caldier, Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Harris, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Boehnke, Chandler, Dye, Hoff, Schmick and Steele.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Jacobsen.

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

### **Background:**

#### Long-Term Services and Supports Trust Program.

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, representatives from Area Agencies on Aging, and stakeholders and consumers of approved services. The Trust Commission's January 1, 2022, report included recommendations related to allowing exemptions from the Trust Program for residents of border states or Canada who commute to work in Washington; people working in the United States under a temporary, nonimmigrant work visa; veterans with a 70 to 100 percent service-connected disability; and spouses of active-duty members of the military.

#### Long-Term Care Services for Veterans.

Veterans with a certain level of impairment resulting from a service-connected disability may receive long-term care benefits through the federal Veteran's Administration (VA). The term "veterans" includes any person who served in the active military, naval, or air service during a period of war. A disability is considered to be "service-connected" if it was incurred or aggravated in the line of duty in the active military, naval, or air service. In determining the level of disability, the VA has a rating schedule with numerous assigned levels of disability for various injuries to all parts of the body. The ratings represent the percentage of disability that a veteran is determined to have based upon a particular injury. The rating system includes a method for combining multiple injuries to determine a single percentage of disability.

Veterans with a disability rating of 70 percent or greater and those who require nursing home services for a service-connected disability are automatically eligible for nursing home level care through the federal Veteran's Administration. In addition to the nursing home program, other options are available to veterans with differing levels of eligibility and payment standards, depending on available resources.

#### Temporary Nonimmigrant Workers.

The federal government has jurisdiction over the terms and conditions for immigrants to reside in the United States. Noncitizen immigrants living permanently in the United States have "immigrant status," and noncitizens who enter or stay in the United States on a temporary basis have "nonimmigrant status." Persons with nonimmigrant status may enter the United States for such purposes as tourism, business, medical treatment, or certain types of work. There are 22 different types of visas that allow persons with nonimmigrant status to temporarily work in the United States. To obtain such a visa generally requires a prospective employer to file a nonimmigrant petition with the United States Citizenship and Immigration Services on the temporary worker's behalf.

#### **Summary of Engrossed Substitute Bill:**

Voluntary exemptions from the payment of premiums under the Long-Term Services and

Supports Trust Program (Trust Program) are established for employees in one of four categories:

- An employee who is a veteran of the United States military who has been rated by the United States Department of Veterans Affairs as having a service-connected disability of at least 70 percent may apply for an exemption from the Trust Program.
- An employee who is the spouse or registered domestic partner of an active duty service member of the United States Armed Forces may apply for an exemption from the Trust Program. The exemption must be discontinued within 90 days of either the employee's spouse or registered domestic partner being discharged or separated from military service, or the dissolution of the employee's marriage or registered domestic partnership.
- An employee who holds a nonimmigrant visa for temporary workers who is employed by an employer in Washington may apply for an exemption from the Trust Program. The exemption must be discontinued within 90 days of an employee's nonimmigrant visa for temporary workers status being terminated and the employee becoming a permanent resident or citizen employed in Washington.
- An employee who is employed in Washington, but maintains a permanent residence outside of Washington as the employee's primary location of residence may apply for an exemption from the Trust Program. The exemption must be terminated within 90 days of the employee establishing a permanent address within Washington as the employee's primary location of residence.

Employees who qualify for an exemption may apply to the Employment Security Department for the exemption. Unless a specified condition for termination of the exemption occurs, employees who are approved for an exemption are not required to pay the premium assessment, may not become a qualified individual or eligible beneficiary, and are permanently ineligible for the Trust Program.

Exempt employees are not entitled to refunds of premiums paid prior to being granted exempt status. Exempt employees are responsible for notifying current and future employers of their exempt status. If an exempt employee fails to notify an employer of an exemption, the employee is not entitled to a refund of premiums deducted prior to the notification. Employers must not deduct premiums once an employee has notified them of the employee's exempt status. If an exempt employee fails to begin paying premiums within 90 days of a condition that discontinues the exemption, the employee must pay any unpaid premiums, with interest, from the date on which the premiums should have begun.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Employers and employees have expressed confusion about the Trust Program, and the proposed voluntary exemptions will help address this confusion. Some might prefer a repeal, but are heartened by the proposed changes under consideration by the Legislature.

The Legislature should consider creating an exemption process for Catholic priests. Three Catholic dioceses in the state would like an exemption to the Trust Program's premium because they already provide a variety of long-term services and supports for retired priests.

(Opposed) None.

(Other) Many individuals, including aviation workers, support voluntary exemptions for people who work in Washington but whose primary residence is outside the state. Another option would be an exclusion for aviation workers that allows for aviation workers to opt in to the Trust program. The Legislature is encouraged to allow for people to opt out of the Trust Program on an annual basis.

**Persons Testifying:** (In support) Representative Dave Paul, prime sponsor; Mario Villanueva, Washington State Catholic Conference; Mike Schneider, Air Line Pilots Association; Amy Anderson, Association of Washington Business; Julie Salvi, Washington Education Association; Amber Carter; and Seamus Petrie, Washington Public Employees Association.

(Other) Doug Mattson, Air Line Pilots Association.

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