

# SENATE BILL REPORT

## SJR 8200

---

---

As of January 18, 2021

**Brief Description:** Proposing an amendment to the Constitution concerning the investment of funds to provide for long-term care services and supports.

**Sponsors:** Senators Keiser, Conway, Mullet and Nguyen.

**Brief History:**

**Committee Activity:** Ways & Means: 1/18/21.

**Brief Summary of Joint Resolution**

- Proposes a constitutional amendment to allow funds for long-term care services and supports to be invested as provided by law.

---

### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Julie Murray (786-7711)

**Background:** In 2019, the state enacted the Long-Term Services and Supports (LTSS) Trust Program, a long-term care insurance benefit for all eligible Washingtonians, funded by worker premiums. Under this law, individuals will have access to a lifetime benefit of \$36,500 that will be adjusted annually for inflation. Beginning in January 2022, workers will pay a initial premium of \$0.58 per \$100 of earnings to fund the LTSS Trust Program. Beginning in January 2025, workers who have vested in the program and need long-term care will be able to access their earned LTSS Trust Program benefits for a wide range of services and supports.

Beginning January 1, 2024, and biennially thereafter, the worker premium rate shall be set by the Pension Funding Council at the lowest amount necessary to maintain the actuarial solvency of the LTSS Trust, in accordance with recognized insurance principles, and at a rate no greater than fifty-eight hundredths of one percent—\$0.58 per \$100 of earnings. Revenue from premiums must be deposited into the LTSS Trust Fund and the Washington

---

*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.*

State Investment Board (WSIB) is directed to invest the moneys for the benefit of the fund. WSIB manages the investments of 17 retirement plans and several other large public funds like Washington's industrial insurance program, colleges and universities funds and developmental disability programs. WSIB uses a long-term, diversified investment strategy that includes investing in fixed-income securities, commodities, real estate, private equities and public stock, which has produced a return on investment in excess of 7 percent. However, due to constitutional restrictions, WSIB cannot invest the LTSS Trust Fund using this strategy.

The State Constitution prohibits the state from being interested in the stock of any company, association, or corporation. This provision has been interpreted to mean that the state cannot invest public funds in stocks and other equities. As a result, state investments are limited to fixed-income securities such as government and corporate bonds and certificates of deposit. In the past, some state funds have been specifically exempted from constitutional investment restrictions through constitutional amendments. Currently, these include public pension or retirements funds, industrial insurance trust funds, and funds held in trust for the benefit of persons with developmental disabilities.

In order to allow WSIB to invest the LTSS Trust Fund using its long-term, diversified investment strategy or other strategy not constrained to fixed-income securities, in 2020, the Legislature passed ESJR 8212 to propose a constitutional amendment to add funds for long-term care services and supports to the list of public funds exempt from current constitutional investment restrictions. At the general election, the proposal was rejected by a vote of 45.64 percent voting to approve and 54.36 percent voting to reject. The measure received majority approval in only three counties—Jefferson, King and Whatcom.

The Office of State Actuary requested the help of Milliman to provide an actuarial analysis of the LTSS Trust Program, as required in state law. The report highlighted the impact the state's investment strategy has on the premium rate for the LTSS Trust Fund. Milliman estimated the worker premium rate would need to be between 0.53 percent and 0.64 percent with the passage of ESJR 8212 and 0.64 percent and 0.69 percent if ESJR 8212 is rejected. Therefore, with ESJR 8212 being rejected, the current maximum premium rate of 0.58 percent may be insufficient to keep the LTSS Trust Program solvent over a 75 year financial horizon.

**Summary of Joint Resolution:** At the next general election, an amendment to the State Constitution will be presented to the voters to add funds to provide for long-term care services and supports to the list of public funds exempt from current constitutional investment restrictions.

**Appropriation:** None.

**Fiscal Note:** Requested on January 11, 2020.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Last year's bill received broad bi-partisan support. This bill would allow WSIB to invest LTSS funds as we do pensions and workers compensation, and enjoy the good investment returns as those programs do. This bill puts the issue to the voters again and with the attention of the public focused on this issue, I think its passage will be successful. The LTS Commission voted unanimously to propose the amendment again. Very important for WSIB to create a more robust investment package to produce better earnings. If the bill passes and is enacted by the voters, the premium being paid by workers could be lower. With lower investment returns, benefits could be paid in full through 2075, but thereafter, benefits would be reduced to what could be paid with income into the fund. AARP and other stakeholders put together a modest campaign after polling trended showed the amendment may not pass. The campaign in favor of passage received endorsements across the state and across the political spectrum once we were able to education people on the issue. We feel the ballot result was a reflection of the political and economic realities in 2020 and being placed after a series of advisory votes. AARP remains committed to the LTSS program and supports passage of bill. The LTSS program provides a significant additional payer for long term care needs for families and individuals. Being able to invest the funds as the bill means a 20 percent gain to the LTSS Trust over the long-haul and is move we should make.

OTHER: The amendment would allow WSIB the latitude to develop a fully diversified investment portfolio designed to meet long-term needs of the trust and short-term needs for liquidity to pay benefits. The Office of State Actuary has a statutory role in the program to report and to make recommendation on achieving and maintaining fund solvency. The Milliman report states that if the LTSS Trust is invested in lower risk/returning asset classes, and assuming no increase in maximum premium rate, the LTSS Trust account balance will be depleted by 2076. Thereafter, the Trust would have sufficient funds to pay about 70 percent of benefits using premium income on a pay-as-you-go basis. If the amendment passes with the voters and funds are invested in higher return, but higher risk, assets, Milliman projects that the fund is more likely to be able to pay full benefits over a 75-year horizon.

**Persons Testifying:** PRO: Senator Karen Keiser, Prime Sponsor; Cathy MacCaul, AARP Washington State; Dan Murphy, Northwest Regional Council; Bill Moss, DSHS, Aging and Long-Term Support Administration; Ben Veghte, DSHS, Aging and Long-Term Support Administration.

OTHER: Chris Phillips, State Investment Board; Luke Masselink, Office of the State Actuary.

**Persons Signed In To Testify But Not Testifying:** No one.