JANUARY 2022

BILL BRIEF

HB 1732 & HB 1733: Delaying and modifying the Long-Term Care Services and Supports (LTSS) program

Key takeaways

- Delays the implementation of the LTSS program by 18 months, so premium collections will begin July 1, 2023.
- Allows employees born before 1968 to receive partial benefits based on how many years they paid premiums.
- Creates four new voluntary exemptions from the LTSS program for veterans with service-connected disabilities, active-duty military spouses, employees who work in Washington but live elsewhere, and H2A workers.

Background

- With no House Republican votes, the new long-term care insurance program and payroll tax were established by the passage of HB 1087 during the 2019 legislative session.
- HB 1087 created the Long-Term Care Services and Supports (LTSS) program to provide individuals who pay into the program for a specified period of time with a lifetime benefit (up to $36,500) for future long-term care costs.[1]
- To pay for the new program, HB 1087 created a new payroll tax of 0.58% on wages. While the rate is set in statute at 0.58%, it would need to increase to *at least* 0.66% for the trust account to be solvent over 75 years (industry standard).
- More information can be found at wacaresfund.wa.gov.

Summary

- HB 1732 delays the implementation of the LTSS program by 18 months, so premium collections will begin July 1, 2023. Any premiums collected before July 1, 2023, must be refunded to the employee within 120 days. The bill would also allow employees born before January 1, 1968, to receive partial benefits based on the number of years they paid premiums (each year = 1/10 the benefit or $3,650).
- HB 1733 creates four new voluntary exemptions from the LTSS program for (i) veterans with service-connected disability ratings of 70 or above, (ii) active-duty military spouses, (iii) employees who work in Washington but live elsewhere, and (iv) H2A workers (nonimmigrant visas for temporary workers). Exempt employees are required to report any change to their exemption circumstances to ESD,

Key messages

Even with the improvements contained in House Bills 1732 and 1733, the LTSS program and payroll tax will continue to be ***unpopular, insolvent,*** *and* ***inadequate.***

This program is unpopular. *Washingtonians do not want this program and payroll tax – 63% of voters voted to repeal the program and 450,000 employees have already opted out. While these bills do delay this unpopular program, they do not make sufficient improvements.*

This program is insolvent. *These bills do not address the increasingly insolvent LTSS trust fund, likely setting the stage for an increase to the payroll tax.*

This program is inadequate. *The LTSS program requires every employee in Washington to purchase a private plan or pay a mandatory payroll tax in exchange for a modest benefit. House Republicans offered a real solution (HB 1913) that would make long-term care insurance affordable for those who want it, but optional for those who don't.*

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[1] The federal department of health and human services found that among people needing care, women spend an average of $175,000 and men spend $142,000 in their lifetime. A lifetime benefit of $36,500 thus equates to about 21% of the average cost of care for women and about 26% of the average cost of care for men.

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generally within 90 days, at which point the exemption will be discontinued and the employee will begin paying premiums and may become eligible for benefits.

Fiscal Information

- **Implementation costs:** HB 1732 is projected to increase costs to DSHS by about $1 million per year for updated analysis, outreach, and customer service. At the same time, ESD will experience some one-time savings from reducing staff during the 18-month delay before ramping back up. HB 1733 is projected to increase costs to DSHS and ESD by $2-3 million per year for outreach, customer service, actuarial analysis, and IT changes. All costs are assumed to be paid out of the LTSS Account (funded by employee premiums) which was capitalized by a loan from the state general fund (which must be repaid with interest).

- **Actuarial impacts:** The current payroll tax rate of 0.58% is set in statute and is estimated to keep the LTSS trust fund solvent until 2075. However, based on 2020 actuarial analysis, the premium required to pay for all program benefits and expenses over the next 75 years (the industry standard) is 0.66%. Moreover, the baseline rate of 0.66% assumed that 105,000 employees would opt-out of the LTSS program while actual experience was closer to 450,000.[2] This means that an updated baseline analysis will likely yield a rate higher than 0.66%.
  - As compared to the baseline, HB 1732 is expected to *decrease* the rate by 0.03% (0.63%)
    - The delay is expected to improve trust solvency because wages continue to grow during the 18-month delay (increasing revenue to the trust), but the initial benefit level would remain at $36,500.
  - As compared to the baseline, HB 1733 is expected to *increase* the rate by 0.05%-0.08% (0.71%-0.74%)
    - The new voluntary exemptions will reduce trust solvency because you are removing revenue from the trust (more people opting out means less money going in).

- **Premium rate:** The payroll tax of 0.58% is set in statute and is not changed by either HB 1732 or HB 1733. While these bills may impact trust fund solvency, legislative action is required to increase the tax rate above 0.58%.

Reasons to Support

- HB 1732 delays the LTSS program and payroll tax by 18 months, giving the Legislature more time to unwind or improve this unpopular program.
- Under the current LTSS program, many employees nearing retirement will pay into the program but are unable to meet the requirements for vesting – HB 1732 ensures these employees can receive at least a partial benefit.
- HB 1733 allows important groups to opt-out of the program and the payroll tax, including disabled veterans (who have their own coverage), as well as active-duty military spouses and employees who work in Washington but live elsewhere (since these individuals would pay into the program but never receive the benefit).

Reasons to Oppose

- In a 2019 advisory vote, 63% of Washington voters said the LTSS program should be repealed.
- These bills make modest changes to a program that needs a complete overhaul – House Republicans have offered real solutions including HB 1594 (repeals the program), HB 1742 (modest improvements), and HB 1913 (repeal and replace) that were not considered by the majority party.
- These bills delay the LTSS program for 18 months, yet the majority party is also rushing through just half of the WA Cares Trust Commission's recommendations using unreasonably restrictive titles, effectively precluding meaningful participation by the minority caucus and the public.
- Asking employers to start, stop, and refund a payroll tax (before eventually restarting) is unfairly burdensome.
- These bills make an already insolvent trust account slightly more insolvent, likely setting up a payroll tax increase.

[2] *It is worth noting that the 450,000 opt-outs would almost certainly have been higher if not for an arbitrary deadline of November 1 coupled with an industry that ultimately could not meet the demand for new policies.*