WASHINGTON POLICY CENTER

LEGISLATIVE MEMO

HB 1087, to impose a $1 billion annual payroll tax increase on workers to create a new entitlement program

By Erin Shannon, Director, Center for Worker Rights

April 2019

Key findings

1. **HB 1087 would impose a $1 billion annual payroll tax on every worker in the state to fund the creation of a Long-Term Services and Support (LTSS) entitlement program.**

2. **The new program would provide limited benefits for eligible workers to help pay the cost of long-term care they may need in the future.**

3. **Paying the tax would be mandatory for all workers, but only some of those workers would be eligible to collect benefits.**

4. **Assuming the payroll tax rate does not increase (an optimistic and unlikely assumption), the state's workers will be paying more than $30 billion in taxes between 2022-2053 to fund the LTSS program.**

5. **The new LTSS program is estimated to save the state $1.9 billion in Medicaid spending between 2022-2053. However, given the estimated program costs of $675 million over the same period, workers will pay more than $30 billion for the state to realize net savings of just over $1.2 billion.**

6. **The new LTSS payroll tax created by HB 1087 would be imposed in addition to the new payroll tax every worker began paying this year for the state's new Paid Family and Medical Leave program. OFM estimates just that new payroll tax will take upwards of $400 million in new taxes from workers each year.**

7. **So, if HB 1087 is passed, workers in our state will soon be paying nearly $1.4 billion in new taxes every year.**

Introduction

HB 1087, sponsored by Representative Laurie Jinkins (D-Tacoma), would impose a $1 billion annual payroll tax on every worker in the state to fund the creation of a Long-Term Services and Support (LTSS) entitlement program. The new program would provide limited benefits for eligible workers to help pay the cost of long-term care they may need in the future. Participation in the program would be mandatory for all workers.

HB 1087 passed the House with little fanfare (63-33) on February 21, 2019, and awaits action in the Senate.

Background

Long-term care programs provide services and assistance for the aged and disabled who need help with daily living tasks such as bathing, dressing, medication administration, transportation, and other activities. Such care services can be delivered by paid caregivers in institutional settings such as nursing homes, but increasingly care is provided in community-based (such as an assisted living facility or adult family home) or home settings by both paid and unpaid caregivers. In Washington, over 80 percent of long-term care needs are provided by unpaid family caregivers.

Home and community-based care not only allows for more personalized service, it is also significantly cheaper than institutional care. Between 2000-2014, such care resulted in an estimated tax dollar savings of $2.7 billion in Washington state.

Medicaid is the primary funding source for long-term care services, in both institutional settings and in-home care.

The 2015-17 state Operating Budget funded the Department of Social and Health Services to contract for an independent feasibility study and actuarial modeling of public and private

washingtonpolicy.org
(206) 937-9691

options to provide financial assistance to help Washington residents meet their long-term services and supports needs.

The first option was to review a public long-term care benefit for workers funded through a payroll tax deduction that would provide a time-limited long-term care insurance benefit. The second option was to review a public-private reinsurance model to provide a stable source of reimbursement for insurers for a portion of catastrophic long-term services and supports losses.

Although the study was mandated by the Washington state legislature, funding for the study was provided not just by the state. It was also funded by a "group of interested stakeholders," including the American Association of Retired Persons (AARP), Service Employees International Union (SEIU), Washington Health Care Association, LeadingAge, and the Adult Family Home Council.

The study was released in January 2017, finding that "a public LTSS insurance benefit for employees funded through a mandatory payroll deduction has the potential to generate [tax dollar] savings," while also finding the public-private reinsurance program has little potential to generate [tax dollar] savings."[1] The study noted there are 830,000 unpaid family caregivers providing long-term support for family members or friends in their home in Washington state.

Based on these findings, the 2017-19 Operating Budget funded an update to the 2016 feasibility study and directed the study to also review alternative variations of the public long-term care benefit.[2] In addition, the 2017-19 Operating Budget established a work group to develop a proposal to include family members as providers of long-term services and supports under the public long-term care benefit.

HB 1087 is the result.

Text of HB 1087

The new state-run LTSS program proposed by HB 1087 would provide up to $36,500 in lifetime benefits for eligible workers to apply to the cost of their long-term care. That lifetime benefit would increase by 3 percent every year. The bill does not specify a corresponding schedule or formula for how the payroll tax would be increased to fund the annual increase, only that the new Long-Term Services and Support Commission created to oversee the program must report annually on the adequacy of that tax rate and advise lawmakers on actions necessary to ensure solvency of the program.

The payroll tax would start off at .58 percent of the wages of every employee in the state. Workers would begin paying the tax on January 1, 2022, and long-term care benefits would become available in 2025. The new tax would be automatically deducted by employers and remitted to the state.

In order to be eligible for the LTSS benefits, the bill specifies a vesting period whereby a worker would have to pay into the fund for either three years (working at least 208 hours each of those three years) within the last six years, or for a total of 10 years (working at least 208 hours each of those ten years), with at least five of those years paid consecutively, without interruption. Workers with fewer hours or insufficient years of employment would still pay into the LTSS program, but would not receive any benefits.

1 "Report to the Legislature: Feasibility Study of Policy Options to Finance Long-Term Services and Supports in the State of Washington, ESSB 6052, Section 206(14)(a)," Washington State Department of Social and Health Services, January 2017, at https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=LTSS%20Study%20Report%20-%20ALTSA%20January%202017%20final_c7fef493-9530-4095-bc3e-4c362797c6f9.pdf

2 "Report to the Legislature: 2018 Feasibility Study of Policy Options to Finance Long-Term Services and Supports in the State of Washington: Update to Original Study, ESSB 6032, Section 206(34)," Washington State Department of Social and Health Services, October 2018, at https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=WA%20LTSS%202018%20Feasibility%20Study_83c07ada-0ba4-4797-8798-3fec9e582043.pdf

The state must also determine that an individual resides in the state of Washington and requires assistance with at least "three activities of daily living," such as bathing, dressing, medication administration, personal hygiene, or other health-related tasks. The residential requirement means a worker could pay into the program his entire working life, but would not be eligible to collect any benefits if he later moved to another state to retire.

Once approved, the benefits could be used to pay for a comprehensive list of services ranging from adult day services, to home delivered meals, to in-home personal care, to name a few.

The massive new LTSS program would be administered jointly by a trio of state agencies—the Employment Security Department (ESD), Health Care Authority (HCA), and the Department of Social and Health Services (DSHS). The ESD would collect the payroll tax revenue. HCA would determine which workers receive LTSS benefits, and DSHS would coordinate the benefit services, along with other duties.

Overseeing the entire program would be the newly-created LTSS Commission, to be comprised of 17 members, consisting of lawmakers and agency directors, as well as governor-appointed business representatives, workers, program recipients, representatives from the caregiving and aging industries, and labor union executives. The LTSS Commission would manage the LTSS program and the program's trust account, including proposing changes to the benefit amounts and ensuring the solvency of the Trust Program.

Policy analysis

The cost of the new entitlement program

A fiscal note from the state's nonpartisan Office of Financial Management (OFM) for the proposed LTSS program reports the new payroll tax levied by HB 1087 would take more than $1 billion from workers each year (or $2.1 billion in the 2023-2025 biennium).[3]

The text of HB 1087 says the goal of the legislation is to "lessen the burden of Medicaid on the state budget," and states that the proposed LTSS program "could save the Medicaid program eight hundred ninety-eight million dollars in the 2051-2053 biennium."[4]

This figure is based on the actuarial modeling of the 2018 Updated Feasibility Study.[5] What the text of the bill does not mention is this savings is the estimated federal and state Medicaid program savings. The study notes Washington's "estimated state savings would be half of the combined state and federal savings."

So for the 2051-2053 biennium the state's actual savings would be less than $450 million. In fact, that study estimates savings for the state that averages just $130 million per biennium beginning in 2022 (that's $65 million per year), when Washington workers will begin paying the new tax, through 2053. That amounts to a total savings for the state of $1.9 billion during that three decade time period.

But even that savings is overstated after considering the cost of the new LTSS program. OFM estimates the state will need to hire 130 new FTEs (full time employees) and will spend more than $45 million per biennium ($22 million per year) on the new program. Over the 30-year time period of 2022-2053, that adds up to a minimum of $675 million the state will spend to run the LTSS program.

---

3 "Multiple Agency Fiscal Note: 1087 S HB, Long-Term Services and Support," Washington State Office of Financial Management, February 5, 2019, at https://fortress.wa.gov/FNSPublicSearch/GetPDF?packageID=55820

4 Second Substitute HB 1087, 2019, at http://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/House%20Bills/1087-S2.pdf

5 "Report to the Legislature: 2018 Feasibility Study of Policy Options to Finance Long-Term Services and Supports in the State of Washington: Update to Original Study, ESSB 6032, Section 206(34)," Table 16, page 16, Washington State Department of Social and Health Services, October 2018, at https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=WA%20LTSS%202018%20Feasibility%20Study_83c07ada-0ba4-4797-8798-3fec9e582043.pdf

That is just a starting number; OFM's fiscal note makes clear the "number of FTEs needed and the costs of the Long-Term Services and Supports Trust Program will continue to increase beyond 2025 as the number of Eligible Beneficiaries served in the Program increases."[6] So the actual cost of the program over those 30 years are expected to be significantly higher.

Considering the program will cost the state's workers a staggering $2.1 billion in new taxes every biennium, the cost versus benefit to taxpayers is questionable. Assuming the payroll tax rate does not increase (an optimistic and unlikely assumption), the state's workers will be paying more than $30 billion in taxes between 2022-2053 to fund the LTSS program, all so the state can claim Medicaid savings of $1.9 billion, which will be offset by the state spending $675 million, leaving a total net savings of just $1.2 billion.

Charging workers $1 billion every year so the state can save a little more than $40 million each year is not a solid return on investment by any measure.

Imposing a burden on workers

In addition to costs that clearly are not offset by savings, the mandated participation of every worker in the program creates an unfair burden for many workers who would be forced to pay into the LTSS program, but never collect benefits for their own long-term care. Some workers will simply never have use for the benefit, either not needing long-term care services or using private insurance to cover any care they may need.

Vesting periods mean part-time, seasonal, or the growing segment of so-called "in-and-outs" (workers who take short, temporary breaks between jobs), could significantly pay into the program throughout their working lives but never receive LTSS benefits.[7]

Similarly, the requirement that an individual reside in Washington state in order to be considered an eligible beneficiary would result in the forfeiture of benefits a worker may spend decades paying for, simply by deciding to move to another state.

Securing financial benefit for a union

The new LTSS program is said to be the top priority of the powerful Service Employees International Union (SEIU) this legislative session. Indeed, SEIU lobbyists testified in favor of both HB 1087 and the companion version in the Senate (SB 5133). SEIU also helped pay for the Feasibility Study that recommended the state pursue a public LTSS program for employees funded through a mandatory payroll tax.

What does SEIU stand to gain? The chance to collect more dues dollars is the most likely answer.

In general, more money injected into the long-term care economy means more wages for paid caregivers, which equals more union dues, since SEIU dues are based on wages. It also means more of those dues-paying caregivers. It also means more workers who must complete the state's training requirements, with SEIU paid by the state to provide the training required to be a caregiver.[8]

More specifically, HB 1087 would create an avenue for family members who are currently unpaid providers to become paid providers without the certification requirements of home care aides. The bill would also set new training requirements for some of those family members. Under HB 1087, the 830,000 unpaid family caregivers currently providing in-home care for a loved one in Washington would become a significant source of prospective new money for SEIU.

---

6 "Multiple Agency Fiscal Note: 1087 S HB, Long-Term Services and Support," Washington State Office of Financial Management, February 5, 2019, at https://fortress.wa.gov/FNSPublicSearch/GetPDF?packageID=55820

7 "The Rise of In-and-Outs: Declining Labor Force Participation of Prime Age Men," by John Coglianese, Harvard University, February 28, 2018, at https://scholar.harvard.edu/files/coglianese/files/coglianese_2017_in-and-outs.pdf?m=1519864941

8 Collective Bargaining Agreement, The State Of Washington and Service Employees International Union Healthcare 775NW, 2015-2017, Article 15.1-15.2, "Training Partnership, Partnership Agreement," at https://www.ofm.wa.gov/sites/default/files/public/legacy/labor/agreements/15-17/nse_homecare.pdf

Conclusion

The $1 billion annual LTSS payroll tax created by HB 1087 would be imposed in addition to the new payroll tax every worker began paying this year for the new Paid Family and Medical Leave program (which SEIU also promoted). The state budget office, OFM, estimates that payroll tax will take upwards of $400 million in new taxes from workers each year.[9]

So if HB 1087 is passed, every worker in our state would soon be paying $1.4 billion in new taxes every year.

HB 1087 declares that, "the creation of a long-term care insurance benefit…paid through an employee payroll premium, is in the best interest of the state of Washington." But another one-size-fits-all social safety net program with mandatory participation is not in the best interest of every worker.

It is not in the best interest of the many workers who will be forced to pay higher taxes to fund the new LTSS program but will never receive LTSS benefits. Nor is it in the best interest of workers to pay $1 billion in new taxes every year, so state officials can claim paltry savings of just over $40 million per year. Most importantly, it is not in the best interest of workers to be burdened with higher payroll taxes, on top of the state and federal taxes they already pay.

Erin Shannon is the director of Washington Policy Center's Center for Worker Rights.

Published by
Washington Policy Center

Visit washingtonpolicy.org to learn more.

9 "Multiple Agency Fiscal Note: 5975 S SB, Paid Family and Medical Leave," Washington State Office of Financial Management, August 7, 2017, at https://fortress.wa.gov/FNSPublicSearch/GetPDF?packageID=49094