

SUMMARY OF INITIATIVE 2124 TO THE LEGISLATURE

As of September 3, 2024

This document has been prepared by Senate Committee Services in response to requests for a summary of Initiative 2124 to the Legislature and is provided for legislative purposes only. It is not provided as an expression of support of or opposition to the ballot measure. This document is intended to provide general information and is not intended to be an exhaustive analysis of all issues presented by the measure or be considered legislative history for interpreting Initiative 2124. It is inappropriate to use public resources to support or oppose a ballot measure. Refer to the Legislative Ethics Manual or contact Senate Counsel for further guidance.

Brief Summary

- Requires employees and self-employed persons in Washington to elect to keep coverage under the Long-Term Services and Supports Trust Program (Program).
- Allows employees and self-employed persons who have elected coverage under the Program to opt out at any time.
- Repeals the voluntary exemption for employees who purchased long-term care insurance before November 1, 2021.

Background: Initiative Process. Article II, Section 1, of the Washington State Constitution authorizes the initiative process, allowing the people to place a proposition on the ballot or to submit the proposed law to the Legislature. If an initiative to the Legislature is certified, the Legislature must take one of the following three actions:

- adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- reject or take no action on the measure; in either case the measure will automatically appear on the ballot in the next state general election; or
- propose an alternative measure, in which case the initiative and alternative will both appear on the ballot as competing measures in the next state general election.

In January of 2024, the Secretary of State certified Initiative 2124 relating to state long-term care insurance. The Legislature took no action on the measure during the 2024 legislative session. Therefore, it will appear on the November 2024 general election ballot.

Ballot Title and Measure Prepared by the Attorney General. The ballot title and ballot measure summary are prepared by the Washington State Office of the Attorney General and will read as follows:

Ballot Title.

Initiative Measure No. 2124 concerns state long term care insurance. This measure would provide that employees and self-employed people must elect to keep coverage under RCW

50B.04 and could opt-out any time. It would repeal a law governing an exemption for employees. This measure would decrease funding for Washington's public insurance program providing long-term care benefits and services.

Should this measure be enacted into law? Yes [] No []

Ballot Measure Summary.

This measure would amend state law establishing a state long-term care insurance program to provide that employees and self-employed people must elect to keep coverage under RCW 50B.04, allow employees to opt-out of coverage under RCW 50B.04 at any time, and repeal a current law governing exemptions for employees who had purchased long term care insurance before November 1, 2021.

Long-Term Services and Supports Trust Program. *Program - General.* In 2019, the Long-Term Services and Supports (LTSS) Trust Program (Program) was enacted. The Program provides long-term care benefits to persons who paid premiums for a specified period of time and have been assessed as needing a certain amount of assistance with activities of daily living (ADLs).

The Program is administered jointly by the Department of Social and Health Services (DSHS), the Employment Security Department (ESD), and the Health Care Authority. The Office of the State Actuary performs certain audits and other functions. The LTSS Commission, which includes legislators, agency directors, and stakeholders, meets and makes recommendations to the Governor, certain state agencies, and the Legislature. The LTSS Council, which will include legislators, agency directors, and stakeholders, will meet annually to determine any necessary adjustments to the benefit unit to ensure adequacy and solvency of the Long-Term Services and Supports Trust Account (Account).

Premiums. The Program is funded by a premium of 0.58 percent assessed on employees' wages. Assessments began on July 1, 2023. The premiums are deposited by the Employment Security Department into the Account.

Exemptions. Private and public employees, except federal employees, participate in the Program. The Program does not apply to a federally recognized tribe unless the tribe has elected to participate in the Program. Certain individuals are eligible for voluntary exemptions from the Program, including employees who:

- are U.S. military veterans with a 70 percent service-connected disability rating or higher;
- are spouses or registered domestic partners of active-duty service members;
- have non-immigrant temporary work visas; or
- are employed by a Washington employer but live outside Washington.

In addition, there is a voluntary exemption for employees who attested by December 31, 2022, that they had long-term care insurance purchased before November 1, 2021.

Elective Coverage. Self-employed persons may elect coverage under the Program before July 1, 2026, or within three years of becoming self-employed for the first time. Self-employed persons who elect coverage must pay premiums and may not withdraw from coverage. Beginning July 1, 2026, employees or self-employed persons who leave Washington may elect to continue participating in the Program if they were assessed premiums for at least three years in which they worked at least 500 hours in each of those years.

Eligibility for Benefits. A person is deemed a qualified individual if the person has paid the Program premiums for either a total of ten years without interruption of five or more consecutive years; or three years within the last six years from the date of application for benefits. The person must also have worked at least 500 hours during each of the ten years or three years.

A qualified individual, who is 18 years or older, may become an eligible beneficiary beginning on July 1, 2026, for individuals residing in Washington, and beginning on January 1, 2030, for out-of-state individuals. To become an eligible beneficiary, the qualified individual must file an application with DSHS and undergo an eligibility determination, including an evaluation that the individual:

- residing in Washington, requires assistance with at least three ADLs; or
- residing outside of Washington, either is unable to perform, without substantial assistance from another individual, at least two of the following ADLs for a period of at least 90 days due to a loss of functional capacity: eating, toileting, transferring, bathing, dressing, or continence; or requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairments.

Benefits. Benefits are available beginning on July 1, 2026, for eligible beneficiaries in Washington, and beginning on July 1, 2030, for out-of-state eligible beneficiaries. The maximum lifetime benefits are currently \$36,500 (\$100 benefit units x 365). The benefit unit must be adjusted annually at a rate no greater than the Washington state consumer price index, as determined solely by the LTSS Council.

Other Provisions. Discrimination against persons based upon race, gender, age, or preexisting condition is prohibited under the Program. There are special rules for persons born before January 1, 1968.

Summary of Initiative: Under I-2124, an employee or self-employed person in Washington must elect to keep coverage under the Program. If an employee or self-employed person has elected coverage under the Program, the employee or self-employed person may opt out at any time. The Employment Security Department must adopt rules to implement these provisions of the initiative.

The initiative repeals the statute that allowed a voluntary exemption from the Program premium assessment for an employee, who attested by December 31, 2022, that the employee had long-term care insurance purchased before November 1, 2021.

The initiative is to be liberally construed to effectuate the policies, purposes, and intent of the initiative. If any provision of the initiative or its application is held invalid, the remainder of the initiative or other applications of the provision are not affected.

Effective Date: The initiative takes effect 30 days after the election at which it is approved.

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