



## Summary of Engrossed Senate Joint Resolution 8212

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Engrossed Senate Joint Resolution 8212. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

### BRIEF SUMMARY

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

### BACKGROUND

#### Engrossed Senate Joint Resolution 8212

An amendment to the Washington Constitution is introduced in the Legislature in the form of a joint resolution. If agreed to by two-thirds of the members elected to both the House of Representatives (House) and the Senate, the joint resolution is placed on the ballot at the next state general election. If a majority of those voting approve, the constitutional amendment is ratified.

Senate Joint Resolution 8212 was introduced in the 2019 Regular Session and agreed to by two-thirds of the members of both the House and the Senate during the 2020 Regular Session. This joint resolution is, therefore, being submitted to the people for approval or rejection at the November 2020 general election.

The ballot title and explanatory statement written by the Office of the Attorney General are as follows:

#### **Ballot Title**

Statement of Subject: The Legislature has proposed a constitutional amendment on investment of public funds.

Concise Description: This amendment would allow public money held in a fund for long-term care services and supports to be invested by governments as authorized by

state law, including investments in private stocks.

### **Explanatory Statement**

**The Constitutional Provision as it Presently Exists:** The Washington Constitution generally prohibits investing public money in the stock of private companies. This means that state and local governments are limited to investing public funds in fixed-income securities, such as government and corporate bonds and certificates of deposit. The Constitution currently exempts several funds from this restriction. This exemption applies to any public pension or retirement fund, the industrial insurance trust fund, and money held in trust for the benefit of people with developmental disabilities. The exemption allows state and local governments to invest money held in those funds as authorized by law, including by investing in stock as authorized by the Legislature. In 2019, the Legislature enacted a law providing for long-term care insurance. Under that law, employees will pay premiums for state-sponsored long-term care benefits through a payroll deduction, beginning January 1, 2022. Those premiums will be deposited into a new Long-Term Services and Supports Trust Account (Trust Account). Under current law, money held in the Trust Account could not be invested in stocks.

**The Effect of the Proposed Amendment if Approved:** This amendment would add the Trust Account to the list of funds that are exempt from the prohibition against investing public money in private stocks. This would allow money in the Trust Account to be invested in stock if the Legislature authorizes that form of investment.

### **Investment of Public Funds in the Long-Term Services and Supports Trust Account**

The Washington Constitution prohibits the state from being interested in the stock, bonds, or credit instruments of any company, association, or corporation. This provision has been interpreted to mean that the state cannot place any investment funds in stock and other equities, nor most forms of corporate bonds or debt. As a result, state investments are limited to fixed-income securities such as government and specific types of corporate debt (such as commercial paper in the secondary market) and certificates of deposit.

Some state funds have been specifically exempted from constitutional investment restrictions through constitutional amendments. These include public pension or retirement funds, industrial insurance trust funds, and funds held in trust for the benefit of persons with developmental disabilities.

In 2019 Second Substitute House Bill 1087 (Chapter 363, Laws of 2019) was enacted to establish a program to provide long-term services and supports funded through a premium on employee wages for deposit into a Long-Term Services and Supports Trust Account. The moneys in these accounts are subject to the constitutional investment restrictions.

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## **SUMMARY**

An amendment is proposed to the Washington Constitution that adds funds for long-term care services and supports to the list of public funds exempt from current constitutional investment restrictions.

**Effective Date:** The joint resolution takes effect if approved by the voters at the next general election.

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