
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: I-2387.1/11

ATTY/TYPIST: AL:ean

BRIEF DESCRIPTION:

Initiative Measure NO. 1139

filed February 28, 2011

AN ACT Relating to long-term care services for the elderly and persons with disabilities; adding a new section to chapter 82.24 RCW; adding new sections to chapter 74.39A RCW; creating new sections; providing an effective date; and providing a contingent expiration date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** It is the intent of the people through this initiative to restore access to safe, quality care for the vulnerable elderly and persons with disabilities. The people of the state of Washington find as follows:

(1) The governor and legislature have adopted budget cuts that deprive vulnerable elderly and persons with disabilities of the long-term care that they need to remain living in their homes, rather than being forced to move into nursing homes. Providing these services is a sound investment for Washington taxpayers, who would otherwise be forced to incur much higher costs for nursing home care.

(2) To protect vulnerable elderly and persons with disabilities during this budget crisis, the people restore the cuts to the long-term care system and provide temporary funding. Taxpayers' investments will be protected by basing care decisions on objective assessments of medical need, increased fraud investigation and enforcement, providing regular audits and reporting of public costs, and capping administrative expenses.

PART I

**PROTECTING VULNERABLE ELDERLY AND PERSONS WITH DISABILITIES BY
RESTORING BUDGET CUTS TO RESTORE MEDICALLY NECESSARY
LONG-TERM IN-HOME CARE**

NEW SECTION. **Sec. 101.** (1) The people hereby direct the legislature to restore the budget cuts to long-term, in-home care that have reduced the hours of long-term care provided to vulnerable elderly and people with disabilities to below the hours prescribed in their approved care plans, which reflects an objective assessment of medical need.

(2) By restoring the hours of in-home care to that which is prescribed in their approved care plans, this initiative will allow vulnerable elderly and persons with disabilities to continue living in their homes with dignity rather than being forced to move into a nursing home.

(3) Effective January 1, 2012, the department of social and health services shall restore to eligible individuals the hours of in-home care that are called for in each individual's approved plan of care.

(4) The department of social and health services may reduce the hours of in-home care called for in an individual's plan of care only after reassessing the individual's medical need under the methodology of WAC 388-106-0125 and 388-106-0130(2), (3), (4), (5), and (6), as they existed on January 1, 2011, and after an individual hearing on the amendment to the plan of care. The reduction in hours pursuant to

the new plan of care does not take effect until after the individual hearing and any appeals are completed.

(5) After the enactment of this act, the department of social and health services may not put in effect any eligibility standards, methodologies, or procedures that are more restrictive than the eligibility standards, methodologies, or procedures in effect on January 1, 2011.

PART II

RESTORING FUNDING FOR LONG-TERM IN-HOME CARE TROUGH A TEMPORARY INCREASE IN THE CIGARETTE TAX

NEW SECTION. **Sec. 201.** A new section is added to chapter 82.24 RCW to read as follows:

Beginning February 1, 2012, in addition to other existing taxes, there is imposed an additional tax on cigarettes at the rate of one dollar per pack of cigarettes. All revenues collected during any month from this additional tax must be deposited in the long-term care trust account created in section 203 of this act by the twenty-fifth day of the following month, and used to restore cuts to long-term in-home care services.

NEW SECTION. **Sec. 202.** The additional tax imposed by section 201 of this act automatically expires August 1, 2014, unless renewed.

NEW SECTION. **Sec. 203.** A new section is added to chapter 74.39A RCW to read as follows:

The long-term care trust account is hereby created in the custody of the state treasurer. Amounts held by the long-term care trust account must be used solely to fund the costs of implementing this act to ensure quality long-term care for the elderly and persons with disabilities. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

PART IV

**PROTECTING TAXPAYERS BY REQUIRING REGULAR AUDIT AND REPORTING,
INCREASING FRAUD INVESTIGATION, AND CAPPING ADMINISTRATIVE EXPENSES**

NEW SECTION. **Sec. 401.** A new section is added to chapter 74.39A RCW to read as follows:

The state auditor shall audit the long-term care program and the implementation of this act and shall report on the results of such audit to the legislature and to the public by December 31, 2014.

NEW SECTION. **Sec. 402.** A new section is added to chapter 74.39A RCW to read as follows:

The state shall spend at least ninety percent of the funding allocated to home care services on direct care to seniors and persons with disabilities.

NEW SECTION. **Sec. 403.** A new section is added to chapter 74.39A RCW to read as follows:

Within ninety days of the effective date of this section, the department shall hire five additional fraud investigators to ensure that clients receiving in-home care at taxpayers' expense are medically and financially qualified to receive such benefit and are actually receiving and appropriately utilizing such benefit.

PART V

MISCELLANEOUS

NEW SECTION. **Sec. 501.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

NEW SECTION. **Sec. 502.** If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 503.** This act takes effect sixty days after the election at which it is enacted.

NEW SECTION. **Sec. 504.** This act may be known and cited as "the restoration of long-term care for the elderly and persons with disabilities act."