

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1733

Chapter 2, Laws of 2022

67th Legislature
2022 Regular Session

LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM—VOLUNTARY EXEMPTIONS

EFFECTIVE DATE: June 9, 2022

Passed by the House January 19, 2022
Yeas 67 Nays 29

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate January 26, 2022
Yeas 38 Nays 11

DENNY HECK

President of the Senate

Approved January 27, 2022 2:21 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1733** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

January 27, 2022

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1733

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By House Appropriations (originally sponsored by Representatives Paul, Macri, J. Johnson, Leavitt, Bronoske, Chapman, Senn, Berry, Cody, Dolan, Fey, Peterson, Ryu, Santos, Shewmake, Wylie, Simmons, Callan, Chopp, Slatter, Ramos, Bergquist, Tharinger, Valdez, Thai, Pollet, Morgan, Taylor, Stonier, Ortiz-Self, Gregerson, Riccelli, Davis, Ormsby, Duerr, Orwall, Bateman, Kloba, and Frame)

READ FIRST TIME 01/14/22.

1 AN ACT Relating to establishing voluntary exemptions to the long-
2 term services and supports trust program for certain populations
3 identified in the long-term services and supports trust commission's
4 2022 recommendations report, specifically including exemptions only
5 for veterans with a service-connected disability of 70 percent or
6 higher, the spouses or domestic partners of active duty service
7 members, persons residing outside of Washington while working in
8 Washington, and persons working in the United States under a
9 temporary, nonimmigrant work visa; amending RCW 50B.04.080 and
10 50B.04.050; and adding a new section to chapter 50B.04 RCW.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 **Sec. 1.** RCW 50B.04.080 and 2020 c 98 s 4 are each amended to
13 read as follows:

14 (1) ~~((Beginning))~~ Unless otherwise exempted pursuant to this
15 chapter, beginning January 1, 2022, the employment security
16 department shall assess for each individual in employment with an
17 employer a premium based on the amount of the individual's wages. The
18 initial premium rate is ~~((fifty-eight hundredths of one))~~ .58 percent
19 of the individual's wages. Beginning January 1, 2024, and biennially
20 thereafter, the premium rate shall be set by the pension funding
21 council at a rate no greater than ~~((fifty-eight hundredths of~~

1 ~~one~~) .58 percent. In addition, the pension funding council must set
2 the premium rate at the lowest amount necessary to maintain the
3 actuarial solvency of the long-term services and supports trust
4 account created in RCW 50B.04.100 in accordance with recognized
5 insurance principles and designed to attempt to limit fluctuations in
6 the premium rate. To facilitate the premium rate setting the office
7 of the state actuary must perform a biennial actuarial audit and
8 valuation of the fund and make recommendations to the pension funding
9 council.

10 (2)(a) The employer must collect from the employees the premiums
11 provided under this section through payroll deductions and remit the
12 amounts collected to the employment security department.

13 (b) In collecting employee premiums through payroll deductions,
14 the employer shall act as the agent of the employees and shall remit
15 the amounts to the employment security department as required by this
16 chapter.

17 (3) Nothing in this chapter requires any party to a collective
18 bargaining agreement in existence on October 19, 2017, to reopen
19 negotiations of the agreement or to apply any of the responsibilities
20 under this chapter unless and until the existing agreement is
21 reopened or renegotiated by the parties or expires.

22 (4)(a) Premiums shall be collected in the manner and at such
23 intervals as provided in this chapter and directed by the employment
24 security department.

25 (b) To the extent feasible, the employment security department
26 shall use the premium assessment, collection, and reporting
27 procedures in Title 50A RCW.

28 (5) The employment security department shall deposit all premiums
29 collected in this section in the long-term services and supports
30 trust account created in RCW 50B.04.100.

31 (6) Premiums collected in this section are placed in the trust
32 account for the individuals who become eligible for the program.

33 (7) If the premiums established in this section are increased,
34 the legislature shall notify each qualified individual by mail that
35 the person's premiums have been increased, describe the reason for
36 increasing the premiums, and describe the plan for restoring the
37 funds so that premiums are returned to ~~((fifty-eight hundredths of~~
38 ~~one~~) .58 percent of the individual's wages.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 50B.04
2 RCW to read as follows:

3 (1) Beginning January 1, 2023, the employment security department
4 shall accept and approve applications for voluntary exemptions from
5 the premium assessment under RCW 50B.04.080 for any employee who
6 meets criteria established by the employment security department for
7 an exemption based on the employee's status as:

8 (a) A veteran of the United States military who has been rated by
9 the United States department of veterans affairs as having a service-
10 connected disability of 70 percent or greater;

11 (b) A spouse or registered domestic partner of an active duty
12 service member in the United States armed forces whether or not
13 deployed or stationed within or outside of Washington;

14 (c) An employee who holds a nonimmigrant visa for temporary
15 workers, as recognized by federal law, and is employed by an employer
16 in Washington; or

17 (d) An employee who is employed by an employer in Washington, but
18 maintains a permanent address outside of Washington as the employee's
19 primary location of residence.

20 (2) The employment security department shall adopt criteria,
21 procedures, and rules for verifying the information submitted by the
22 applicant for an exemption under subsection (1) of this section.

23 (3) An employee who receives an exemption under subsection (1) of
24 this section may not become a qualified individual or eligible
25 beneficiary and is permanently ineligible for coverage under this
26 title, unless the exemption has been discontinued as provided in
27 subsection (4), (5), or (6) of this section.

28 (4)(a) An exemption granted in accordance with the conditions
29 under subsection (1)(b) of this section must be discontinued within
30 90 days of:

31 (i) The discharge or separation from military service of the
32 employee's spouse or registered domestic partner; or

33 (ii) The dissolution of the employee's marriage or registered
34 domestic partnership with the active duty service member.

35 (b) Within 90 days of the occurrence of either of the events in
36 (a) of this subsection, an employee who has received an exemption
37 under subsection (1) of this section shall:

38 (i) Notify the employment security department that the exemption
39 must be discontinued because of the occurrence of either of the
40 events in (a) of this subsection; and

1 (ii) Notify the employee's employer that the employee is no
2 longer exempt and that the employer must begin collecting premiums
3 from the employee in accordance with RCW 50B.04.080.

4 (c) Upon notification to the employment security department and
5 the employer, premium assessments established under RCW 50B.04.080
6 must begin and the employee may become a qualified individual or
7 eligible beneficiary upon meeting the requirements established in
8 this chapter.

9 (d) Failure to begin paying the premium established under RCW
10 50B.04.080 within 90 days of the occurrence of either of the events
11 in (a) of this subsection shall result in the payment of any unpaid
12 premiums from the employee, with interest at the rate of one percent
13 per month or fraction thereof, by the employee to the employment
14 security department from the date on which the payment should have
15 begun.

16 (5)(a) An exemption granted in accordance with the conditions
17 under subsection (1)(c) of this section must be discontinued within
18 90 days of an employee changing the employee's nonimmigrant visa for
19 temporary workers status to become a permanent resident or citizen
20 employed in Washington.

21 (b) Within 90 days of the employee changing the employee's
22 nonimmigrant visa for temporary workers status to become a permanent
23 resident or citizen employed in Washington, the employee who has
24 received an exemption under subsection (1)(c) of this section shall:

25 (i) Notify the employment security department that the employee
26 no longer holds a nonimmigrant visa for temporary workers and is a
27 permanent resident or citizen employed in Washington and the
28 exemption must be discontinued; and

29 (ii) Notify the employee's employer that the employee no longer
30 holds a nonimmigrant visa for temporary workers and is a permanent
31 resident or citizen employed in Washington, and that the employer
32 must begin collecting premiums from the employee in accordance with
33 RCW 50B.04.080.

34 (c) Upon notification to the employment security department and
35 the employer, premium assessments established under RCW 50B.04.080
36 must begin and the employee may become a qualified individual or
37 eligible beneficiary upon meeting the requirements established in
38 this chapter.

39 (d) Failure to begin paying the premium established under RCW
40 50B.04.080 within 90 days of an employee no longer holding a

1 nonimmigrant visa for temporary workers and becoming a permanent
2 resident or citizen employed in Washington shall result in the
3 payment of any unpaid premiums from the employee, with interest at
4 the rate of one percent per month or fraction thereof, by the
5 employee to the employment security department from the date on which
6 the payment should have begun.

7 (6) (a) An exemption granted in accordance with the conditions
8 under subsection (1)(d) of this section must be discontinued within
9 90 days of an employee establishing a permanent address within
10 Washington as the employee's primary location of residence.

11 (b) Within 90 days of the employee establishing a permanent
12 address within Washington as the employee's primary location of
13 residence, the employee who has received an exemption under
14 subsection (1)(d) of this section shall:

15 (i) Notify the employment security department that the employee
16 is residing in Washington and the exemption must be discontinued; and

17 (ii) Notify the employee's employer that the employee is no
18 longer exempt and that the employer must begin collecting premiums
19 from the employee in accordance with RCW 50B.04.080.

20 (c) Upon notification to the employment security department and
21 the employer, premium assessments established under RCW 50B.04.080
22 must begin and the employee may become a qualified individual or
23 eligible beneficiary upon meeting the requirements established in
24 this chapter.

25 (d) Failure to begin paying the premium established under RCW
26 50B.04.080 within 90 days of an employee establishing a permanent
27 address within Washington as the employee's primary location of
28 residence shall result in the payment of any unpaid premiums from the
29 employee, with interest at the rate of one percent per month or
30 fraction thereof, by the employee to the employment security
31 department from the date on which the payment should have begun.

32 (7) Exempt employees are not entitled to a refund of any premium
33 deductions made before the effective date of an approved exemption,
34 except for premiums collected prior to the effective date of the
35 premium assessment under RCW 50B.04.080.

36 (8) An employee who has received an exemption pursuant to this
37 section shall provide written notification to all current and future
38 employers of an approved exemption.

39 (9) If an exempt employee fails to notify an employer of an
40 exemption, the exempt employee is not entitled to a refund of any

1 premium deductions made before notification is provided, except for
2 premiums collected prior to the effective date of the premium
3 assessment under RCW 50B.04.080.

4 (10) Employers may not deduct premiums after being notified by an
5 employee of an approved exemption issued under this section.

6 (a) Employers shall retain written notifications of exemptions
7 received from employees.

8 (b) An employer who deducts premiums after being notified by the
9 employee of an exemption is solely responsible for refunding to the
10 employee any premiums deducted after the notification.

11 (c) The employer is not entitled to a refund from the employment
12 security department for any premiums remitted to the employment
13 security department that were deducted from exempt employees.

14 (11) The provisions of RCW 50B.04.085 do not apply to the
15 exemptions issued pursuant to this section.

16 (12) The employment security department shall adopt rules
17 necessary to implement and administer the activities specified in
18 this section related to the program, including rules on the
19 submission and processing of applications under this section.

20 **Sec. 3.** RCW 50B.04.050 and 2021 c 113 s 4 are each amended to
21 read as follows:

22 (1) The employment security department shall deem a person to be
23 a qualified individual as provided in this chapter if the person has
24 paid the long-term services and supports premiums required by RCW
25 50B.04.080 for the equivalent of either:

26 (a) A total of ten years without interruption of five or more
27 consecutive years; or

28 (b) Three years within the last six years from the date of
29 application for benefits.

30 (2) When deeming a person to be a qualified individual, the
31 employment security department shall require that the person have
32 worked at least five hundred hours during each of the ten years in
33 subsection (1)(a) of this section or each of the three years in
34 subsection (1)(b) of this section.

35 (3) An exempt employee may never be deemed to be a qualified
36 individual, unless the employee's exemption was discontinued under
37 section 2 of this act.

Passed by the House January 19, 2022.
Passed by the Senate January 26, 2022.

Approved by the Governor January 27, 2022.
Filed in Office of Secretary of State January 27, 2022.

--- **END** ---