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January 11, 2022

Rep. Laurie Jenkins, Speaker
Washington State House of Representatives
Post Office Box 40600
Olympia, WA 98504

Rep. Pat Sullivan, Majority Leader
Washington State House of Representatives
Post Office Box 40600
Olympia, WA 98504

Rep. Larry Springer, Deputy Majority Leader
Washington State House of Representatives
Post Office Box 40600
Olympia, WA 98504

RE: WA Cares / Long-Term Services and Supports Trust modifications for the self-employed

Dear Speaker Jenkins, Reps. Sullivan and Springer:

Thank you for including NFIB in your January 4 briefing regarding the WA Cares long-term services and supports program, including HB 1732 and 1733.

During that conversation, you were kind enough to invite members of the business community to provide suggestions for additional program changes.

Based on feedback from our members, it is clear **small-business owners are unlikely to voluntarily participate in the program as currently designed**. There are several reasons for this hesitation.

- Thousands of **small businesses were shuttered or forced to reduce hours and occupancy**, at least temporarily, during the ongoing public health emergency. This has led to reduced sales and earnings, forcing owners to **drastically cut non-essential expenses**.
- Workforce shortages, supply chain disruptions, and, more recently, substantial inflation are **significantly increasing operating costs**, further delaying meaningful economic recovery among small businesses.
- Unlike the Paid Family & Medical Leave program, there is **no cap on the premium charges** a self-employed individual who voluntarily enrolls in the program may be assessed.

To help address these concerns, NFIB offers the following for your consideration.



Sec. 5. RCW 50B.04.090 and 2021 c 113 s 6 are each amended to read as follows:

(1) Beginning ~~((January 1, 2022))~~ July 1, 2023, any self-employed person, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage under this chapter. Coverage must be elected before ~~((January 1, 2025))~~ July 1, 2026, or within three years of becoming self-employed for the first time. Those electing coverage under this subsection are responsible for payment of ~~((one hundred))~~ 100 percent of all premiums assessed to an employee under RCW 50B.04.080. The self-employed person must file a notice of election in writing with the employment security department, in the manner required by the employment security department in rule. The self-employed person is eligible for benefits after paying the long-term services and supports premium for the time required under RCW 50B.04.050.

(2) A self-employed person who has elected coverage may not withdraw from coverage.

(3) A self-employed person who elects coverage must continue to pay premiums until such time that the individual retires from the workforce or is no longer self-employed. To cease premium assessment and collection, the self-employed person must file a notice with the employment security department if the individual retires from the workforce or is no longer self-employed.

(4) The commissioner of the employment security department must annually set a maximum limit on the amount of wages that is subject to a premium assessment under this section that is equal to the maximum wages subject to taxation for social security as determined by the social security administration.

~~(4)~~ (5) The employment security department may cancel elective coverage if the self-employed person fails to make required payments or file reports. The employment security department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation must be effective no later than ~~((thirty))~~ 30 days from the date of the notice in writing advising the self-employed person of the cancellation.

~~(5)~~ (6) Those electing coverage are considered employers or employees where the context so dictates.

~~(6)~~ (7) For the purposes of this section, "independent contractor" means an individual excluded from the definition of "employment" in RCW 50B.04.010.

(8) For the purposes of this section, "sole proprietor" includes an entity that is a pass-through or disregarded entity for federal tax purposes, such as a partnership, limited liability company, S corporation, or grantor trust, to the extent of the individual's ownership interest in the entity as reported for federal income tax purposes.

~~(7)~~ (9) The employment security department shall adopt rules for determining the hours worked and the wages of individuals who elect coverage under this section and rules for enforcement of this section.

RCW 50B.04.010 (17) and 2021 c 113 s 1, "Definitions" would likely need to be amended as well:



(17) "Wage or wages" means all remuneration paid by an employer to an employee. Remuneration has the meaning provided in RCW 50A.05.010. ~~All wages are subject to a premium assessment and not limited by the commissioner of the employment security department, as provided under RCW 50A.10.030(4).~~

NFIB has signed in supporting HB 1732 at today's House Appropriations Committee public hearing.

We hope delaying the program will allow an opportunity for serious consideration of other meaningful changes that could make WA Cares a more viable option for the self-employed, assuming private long-term care policies remain unavailable to them.

I look forward to discussing these suggestions with you in greater detail. In addition to email, I can be reached by phone or text at (360) 789-3355.

Respectfully submitted,

A handwritten signature in black ink that reads "Patrick L. Connor" with a stylized flourish at the end.

Patrick Connor
Washington State Director