

# SENATE BILL REPORT

## SJR 8211

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As of February 9, 2020

**Brief Description:** Proposing an amendment to the Constitution concerning revenues from certain premiums, contributions, and other charges imposed on wages.

**Sponsors:** Senators Braun, Keiser, Palumbo, Schoesler, Conway and Van De Wege.

**Brief History:**

**Committee Activity:** Ways & Means: 4/18/19, 2/05/20.

**Brief Summary of Joint Resolution**

- Proposes a constitutional amendment to require revenues from premiums, contributions, or other charges imposed on compensation for employment to fund future benefits or services only to payers must be deposited into a special fund to be used exclusively for the purposes for which it was imposed.
- Does not apply provisions of this amendment to premiums, contributions, or other charges imposed by law for deposit into unemployment insurance trust funds, industrial insurance trust funds, or other funds as directed by federal law.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Julie Murray (786-7711)

**Background:** The United States Constitution is a grant of limited power authorizing the federal government to exercise only those constitutionally enumerated powers expressly delegated to it by the states. In contrast, the Washington state constitution imposes limitations on the otherwise plenary power of the state to do anything not expressly forbidden by the state constitution or federal law. Each duly elected legislature is fully vested with this plenary power. No legislature can enact a statute that prevents a future legislature from exercising its law-making power. Consequently, that which a prior legislature has enacted, the current legislature can amend or repeal.

In addition to the state general fund, which may be expended for any lawful purpose, the state maintains several hundred accounts that are dedicated to particular statutory purposes.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Generally, changes the use or dedication of an account may be accomplished through separate legislation or through the omnibus appropriation act on a temporary basis for that fiscal biennium. In addition, the omnibus appropriation act may direct the State Treasurer to the transfer moneys from dedicated accounts to other accounts, including the general fund. Courts have rejected challenges to legislative acts to change the use of a dedicated account or divert moneys from a dedicated account finding such legislative acts are within the plenary power of the legislature unless restricted by the State Constitution or federal law.

The State Constitution does contains restrictions on the use of certain revenues. For example, Article 2, Section 40 of State Constitution requires that the state's motor vehicle fuel taxes, vehicle licensing fees, and all other state revenue intended to be used for highway purposes be deposited into the Motor Vehicle Fund and moneys in that fund may only be spent for highway purposes. Article 9, Section 2 requires the state tax for common schools to be used exclusively for the support of the common schools and Article 9, Section 3 requires proceeds from the sale of certain timber from state lands to be used exclusively for the purpose of financing the construction of facilities for the common schools.

**Summary of Joint Resolution:** The bill as referred to committee not considered.

**Summary of Joint Resolution (Proposed Substitute):** At the next general election, an amendment to the State Constitution will be presented to the voters to require revenues from premiums, contributions, or other charges imposed on compensation for employment for the purpose of creating an actuarially sound system for the provision of future benefits or services only to payers must be deposited into a special fund in the state treasury to be used exclusively for the purposes for which it was imposed. This does not apply to premiums, contributions, or other charges imposed by law for deposit into unemployment insurance trust funds, industrial insurance trust funds, or other funds as directed by federal law.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Regular Session 2019):** PRO: Accident fund and medical aid funds in the worker compensation system are being diverted to other programs that do not have a nexus to workers compensation. We believe in programs like apprenticeship, but worker compensation premiums are not the appropriate funds source for these programs. We would support changing the language to clarify that moneys collect for deposit into federal trust accounts are not subject to this requirement. Money paid into the worker compensation system are based on hours of work, not wages and I do not think those accounts would be covered by this measure. It is important for the Legislature to remember when they enact laws that impact wages they are both impacting the employer and the employee. When we deduct money from employees and we explain to them that this money will be available for future programs established by the Legislature, it is important that we do that and the funds cannot be diverted.

OTHER: We are concerned that as worded, the bill could potentially place the unemployment insurance program out of conformity with federal law. The language that requires funds to be deposited into the state treasury would create a conformity conflict that could result in the loss of administrative funding for the program and tax credits for employers. We are concerned about the impact the proposal would have on the industrial insurance accounts funded by workers' compensation premiums paid for by workers and employers. This bill could undermine programs funded by these accounts such as employment standards and workplace safety and health inspectors. We cannot support any proposal that could undermine health and safety standards or put our unemployment insurance system out of conformity with the federal government.

**Persons Testifying:** PRO: Bob Battles, Association of Washington Business; Patrick Connor, National Federation of Independent Business; Carolyn Logue, Washington Food Industry Association; Kate White Tudor, Washington Association of Area Agencies on Aging.

OTHER: Nick Streuli, Legislative Director, Employment Security Department; Joe Kendo, Washington State Labor Council, AFL-CIO.

**Persons Signed In To Testify But Not Testifying:** No one.

**Staff Summary of Public Testimony (Regular Session 2020):** PRO: The proposed substitute is in response to some of the concerns expressed last year. The goal here is simply to make sure we do what we set out to do with this money and we protect it from other uses. It makes perfect sense to protect dollars that are being taken out of workers' paychecks and put them into a dedicated lockbox fund for those important programs the Legislature recently passed and other programs under consideration.

**Persons Testifying:** PRO: Senator John Braun, Prime Sponsor; Patrick Connor, National Federation of Independent Business.

**Persons Signed In To Testify But Not Testifying:** No one.