



INITIATIVE MEASURE 775

PROPOSED TO THE PEOPLE

Note: The ballot title and explanatory statement were written by the court as required by law. The complete text of Initiative Measure 775 begins on page 16.

Argument For

I-775 WILL HELP SENIORS AND PEOPLE WITH DISABILITIES LIVE AT HOME WITH DIGNITY AND INDEPENDENCE

Home care helps tens of thousands of Washington seniors and people with disabilities stay in their own homes. Home care workers bathe, dress, and feed their consumers; lift them from beds into wheelchairs; and assist with bowel and bladder care, medication schedules, household management, and other tasks these consumers can't do on their own.

AS WASHINGTON'S ELDERLY POPULATION GROWS, WHO WILL CARE FOR THEM?

Seniors are having a harder time finding reliable and trained home care workers. Too many families face the hard choice of institutionalizing their parents and grandparents in nursing homes because there is no place to go to find qualified caregivers.

HELP SENIORS AND THEIR FAMILIES FIND QUALIFIED CAREGIVERS

I-775 creates a caregiver registry so families have a way to find qualified home care workers. For the first time consumers will have access to a list of trained caregivers who have passed criminal and employment background checks.

INTRODUCE REAL ACCOUNTABILITY AND STANDARDS

Right now, no one is holding the home care program accountable to consumers or taxpayers. I-775 requires a performance audit of Washington's home care program every two years and empowers a consumer board of seniors and people with disabilities to set minimum quality standards, improve training, and increase accountability.

ADDRESS THE SHORTAGE OF CAREGIVERS

As Washington's population grows older, high turnover and wages barely above minimum wage have led to a shortage of caregivers. I-775 establishes worker recruitment pro-

Official Ballot Title:

Initiative Measure No. 775 concerns long-term in-home care services. This measure would create a "home care quality authority" to establish qualifications, standards, accountability, training, referral and employment relations for publicly funded individual providers of in-home care services to elderly and disabled adults.

Should this measure be enacted into law?

Yes [] No []

The law as it presently exists:

Under existing law, the state funds a variety of in-home care services provided to low-income elderly and disabled persons. These services are provided in the homes of the persons receiving the services by individuals under contract with the Department of

grams and helps workers make a profession of providing quality home care by receiving better training and negotiating for a living wage and benefits.

STRENGTHEN HOME CARE NOW TO SAVE TAXPAYER MONEY IN THE LONG RUN

Nursing homes cost three times as much as home care. By improving home care, I-775 will save taxpayers money by helping more seniors stay at home.

SUPPORT QUALITY HOME CARE VOTE YES ON I-775

For more information, visit website: www.wahomecare.org.

Rebuttal of Argument Against

Katrinka Gentile, home care consumer, chair, disability-rights group ADAPT, responds:

"Don't be misled by the opposition's anti-union rhetoric. The AFL-CIO contributed only 1% of campaign funds (source: Public Disclosure Commission).

"I-775 improves care for seniors and disabled people. I-775 helps us find qualified caregivers so we can live at home. I-775 outlaws strikes, protects our right to fire caregivers, and requires the Governor to submit funding for home care improvements. *Yes for Quality Home Care.*"

Voters Pamphlet Argument Prepared by:

LARS HENNUM, President, Washington Council of Senior Citizens, retired pharmacist; KATRINKA GENTILE, disability activist, 20-year home care consumer; REV. JOHN BOONSTRA, Executive Minister, Washington Association of Churches; LOUISE KAPLAN, PhD, RN, ARNP, President, Washington State Nurses Association; KIMBERLY SIMPSON, home care worker, Spokane; DEANA KNUTSEN, parent of developmentally disabled child, elected Hospital Commissioner.

Social and Health Services (DSHS). Depending on the situation, the services provided may include “personal care services” such as bathing, dressing, and transferring from bed to wheelchair, “chore services” such as preparing meals and housekeeping, or a mixture of both types of service.

Caregivers are typically selected by the persons receiving the care. In many cases, the care is provided by an “individual provider,” who provides services in his/her individual capacity. Individual providers are compensated through contracts with DSHS. Individual providers are not employees of DSHS and do not receive state employee benefits. Individual provider compensation is paid by DSHS from federal and state funds appropriated by the legislature. The 2001-2003 budget sets individual provider compensation at \$7.68 per hour.

The legislature has adopted policies encouraging the use of in-home caregivers, both for personal care and for chore services. The legislature has adopted laws requiring background checks and training for providers and defining who is eligible to receive publicly funded services. DSHS, by rule, establishes training requirements for individual providers. DSHS is required to deny payment to an individual provider who does not meet certain requirements, including background checks and required training. The rules currently in force require that a background check be conducted when a person applies for an individual provider contract. The rules also define the training

requirements for individual providers and set deadlines for obtaining the required training.

The effect of the proposed measure, if it becomes law:

This measure would establish a new Home Care Quality Authority governed by a nine-member board appointed by the Governor. At least five board members would be current or former consumers of in-home care services provided for functionally disabled persons, and at least one board member would be a person with a developmental disability. The remaining board members would represent the Developmental Disabilities Planning Council, the Governor’s Committee on Disability Issues and Employment, the State Council on Aging, and the Association of Area Agencies on Aging.

The Authority would: establish qualifications and reasonable standards for accountability for publicly funded individual providers; provide for investigating the background of individual providers and prospective providers; undertake recruiting activities; provide training opportunities; assist consumers and prospective consumers in finding providers; provide routine emergency and respite referrals of individual providers; establish a referral registry of individual providers; remove providers or prospective providers from its registry for not

(continued on page 14)

Argument Against

I-775 LOOKS GOOD. WHY WOULD ANYONE, ESPECIALLY A DISABILITY RIGHTS GROUP OPPOSE IT?

The so-called “Home Care Quality Initiative” is misnamed. I-775 is primarily a labor initiative - it allows individual providers of Personal Assistance Services (PAS) to unionize. That is why the AFL-CIO is financing the campaign for the initiative. If I-775 passes, providers will be able to unionize – but the initiative fails to provide funding for *any* of the authorized activities that would most benefit PAS users.

DOESN'T I-775 HAVE “QUALITY ASSURANCE” PROVISIONS FOR SENIORS AND PEOPLE WITH DISABILITIES?

I-775 talks about standards and training, but does not require the Legislature to fund those provisions. With or without I-775, PAS users must continue to seek funding for the quality assurance they need.

I-775 CONTAINS LANGUAGE THAT ADDRESSES THE RIGHTS OF PAS USERS, SO WHAT’S THE PROBLEM?

The protections are inadequate. I-775 bans strikes, but provides no penalties if work stoppages occur. It appears to protect PAS user rights to hire and fire individual providers, but says nothing about a standard for termination. When unions engage in collective bargaining, one of their core principles is that any termination of employment be for “just cause.”

PAS users, however, need stronger protections. Personal Assistants at times perform the most intimate of tasks including bathing and toileting. A PAS user does not want to justify why they terminate someone and certainly does not want to be bathed by a provider they tried unsuccessfully to fire.

WILL PAS USERS LOSE ANY OF THEIR RIGHTS IF I-775 PASSES?

It’s possible. Many of the rights that PAS users currently exercise as employers will become subject to the collective bargaining process under I-775. In that process, the Governor will appoint representatives for PAS users, while providers will choose their own representatives.

For more information, call 1.800.562.2702.

Rebuttal of Argument For

Does I-775 help PAS users find qualified workers by creating a caregiver registry? The state is already piloting a registry project. I-775 is redundant.

Does I-775 “introduce accountability and standards”? I-775 cannot assure quality home care without funding from the Legislature. I-775 creates an unfunded mandate.

Does I-775 benefit seniors and people with disabilities? No! I-775 takes away their right to negotiate with personal service workers and gives that right to government appointees.

Voters Pamphlet Argument Prepared by:

PHIL JORDAN, Washington Protection and Advocacy System; JOAN COFFIN, Project PAS – Port for Change Steering Committee; MARSHALL MITCHELL.



INITIATIVE MEASURE 747 (continued from page 5)

The effect of the proposed measure, if it becomes law:

The measure would change all of the limitation factors on property tax levy increases to "101%." For taxing districts with populations less than 10,000, the new limitation factor would be 101% of the highest of the three previous annual levies. For the state, the new limitation factor would be the lower of 101% or the previous year's inflation rate. For other taxing districts, the limitation factor would be the lower of these two numbers, but if the inflation rate is less than 1%, the district could increase its levy to the 101% level using the same special procedure and declaration of special need as in existing law.

A taxing district could levy higher amounts with approval of the voters at a general election held in the district or at a special election called for that purpose. The election must be held less than twelve months before the date on which the proposed levy will be made. A majority of those voting would be required for approval.



INITIATIVE MEASURE 773 (continued from page 7)

The effect of the proposed measure, if it becomes law (continued):

products (not including cigarettes), in the amount of 54.515625% of the wholesale sales price.

The revenue from the two new taxes would be first deposited in the health services account. To assure a continued source of revenue for those programs funded with the existing taxes, the measure would provide that specified amounts first be transferred to the violence reduction and drug enforcement account, the water quality account, and the existing health services account, with the remainder available for expenditure for the measure's new purposes.

Revenues collected above these specified amounts would be distributed as follows. First, the Legislature is requested to appropriate \$5 million each for the fiscal years beginning on July 1, 2002, and July 1, 2003, for programs that effectively improve the health of low-income persons, including efforts to reduce diseases and illnesses that harm low-income persons. Second, the state treasurer is directed to transfer 10% of the remainder to the tobacco prevention and control account, to be appropriated and used exclusively for implementation of the state tobacco prevention and control plan. Third, the remainder of the money collected is designated for Washington Basic Health Plan enrollment. The Basic Health Plan is authorized to enroll 20,000 additional persons (over a base of 125,000) in the two-year budget period beginning July 1, 2001, plus an additional 50,000 enrollees in the two-year budget period beginning July 1, 2003.



INITIATIVE MEASURE 775 (continued from page 9)

The effect of the proposed measure, if it becomes law (continued):

meeting qualifications or for crimes or misconduct; and give preference in recruiting, training, referral and employment to recipients of public assistance or other qualified low-income persons.

Those persons receiving services would retain the right to choose, hire, supervise, and terminate individual providers. The Authority could not increase or decrease the hours of service for any consumer below or above the amount determined appropriate by DSHS or the appropriate local agency.

Solely for purposes of the collective bargaining laws, the Authority would be deemed the public employer of the individual providers. The Authority would engage in collective bargaining with the individual providers as a single, statewide unit concerning matters, such as individual provider compensation. Individual providers would not have the right to strike. The Authority, its board members, the area agencies on aging, and their contractors would be entirely or partially immune from certain types of liability for the actions or inaction of individual providers.

The Governor would be directed to request legislative funding to implement the Initiative, as well as meet the terms of each collective bargaining agreement. The Legislature could accept a collective bargaining agreement or reject it and require re-negotiation. The Joint Legislative Audit and Review Committee would be directed to conduct periodic performance reviews of the Authority.



COMPLETE TEXT OF Initiative Measure 747

AN ACT Relating to limiting property tax increases; amending RCW 84.55.005 and 84.55.0101; and creating new sections.

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

POLICIES AND PURPOSES

NEW SECTION. Sec. 1. This measure would limit property tax increases to 1% per year unless approved by the voters. Politicians have repeatedly failed to limit skyrocketing property taxes either by reducing property taxes or by limiting property tax increases in any meaningful way. Throughout Washington every year, taxing authorities regularly increase property taxes to the maximum limit factor of 106% while also receiving additional property tax revenue

from new construction, improvements, increases in the value of state-assessed property, excess levies approved by the voters, and tax revenues generated from real estate excise taxes when property is sold. Property taxes are increasing so rapidly that working class families and senior citizens are being taxed out of their homes and making it nearly impossible for first-time home buyers to afford a home. The Washington state Constitution limits property taxes to 1% per year; this measure matches this principle by limiting property tax increases to 1% per year.

LIMITING PROPERTY TAX INCREASES TO 1% PER YEAR UNLESS APPROVED BY THE VOTERS

Sec. 2. RCW 84.55.005 and 2001 c 2 s 5 (Initiative Measure No. 722) are each amended to read as follows:

As used in this chapter:

(1) "Inflation" means the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the



COMPLETE TEXT OF Initiative Measure 773 (cont.)

of this act shall be appropriated solely for Washington basic health plan enrollment as provided in chapter 70.47 RCW. Funds appropriated pursuant to this subsection (2)(c) must supplement, and not supplant, the level of state funding needed to support enrollment of a minimum of one hundred twenty-five thousand persons for the fiscal year beginning July 1, 2002, and every fiscal year thereafter. The health care authority may enroll up to twenty thousand additional persons in the basic health plan during the biennium beginning July 1, 2001, above the base level of one hundred twenty-five thousand enrollees. The health care authority may enroll up to fifty thousand additional persons in the basic health plan during the biennium beginning July 1, 2003, above the base level of one hundred twenty-five thousand enrollees. For each biennium beginning on and after July 1, 2005, the health care authority may enroll up to at least one hundred seventy-five thousand enrollees. Funds appropriated under this subsection may be used to support outreach and enrollment activities only to the extent necessary to achieve the enrollment goals described in this section.

(3) Prior to expenditure for the purposes described in subsection (2) of this section, funds deposited into the health services account under sections 3 and 4 of this act shall first be transferred to the following accounts to ensure the continued availability of previously dedicated revenues for certain existing programs:

(a) To the violence reduction and drug enforcement account under RCW 69.50.520, two million two hundred forty-nine thousand five hundred dollars for the state fiscal year beginning July 1, 2001, four million two hundred forty-eight thousand dollars for the state fiscal year beginning July 1, 2002, seven million seven hundred eighty-nine thousand dollars for the biennium beginning July 1, 2003, six million nine hundred thirty-two thousand dollars for the biennium beginning July 1, 2005, and six million nine hundred thirty-two thousand dollars for each biennium thereafter, as required by RCW 82.24.020(2);

(b) To the health services account under this section, nine million seventy-seven thousand dollars for the state fiscal year beginning July 1, 2001, seventeen million one hundred eighty-eight thousand dollars for the state fiscal year beginning July 1, 2002, thirty-one million seven hundred fifty-five thousand dollars for the biennium beginning July 1, 2003, twenty-eight million six hundred twenty-two thousand dollars for the biennium beginning July 1, 2005, and twenty-eight million six hundred twenty-two thousand dollars for each biennium thereafter, as required by RCW 82.24.020(3); and

(c) To the water quality account under RCW 70.146.030, two million two hundred three thousand five hundred dollars for the state fiscal year beginning July 1, 2001, four million two hundred forty-four thousand dollars for the state fiscal year beginning July 1, 2002, eight million one hundred eighty-two thousand dollars for the biennium beginning July 1, 2003, seven million eight hundred eighty-five thousand dollars for the biennium beginning July 1, 2005, and seven million eight hundred eighty-five thousand dollars for each biennium thereafter, as required by RCW 82.24.027(2)(a).

NEW SECTION. Sec. 3. A new section is added to chapter 82.24 RCW to read as follows:

In addition to the tax imposed upon the sale, use, consumption, handling, possession, or distribution of cigarettes set forth in RCW 82.24.020, there is imposed a tax in an amount equal to the rate of thirty mills per cigarette effective January 1, 2002. All revenues

collected during any month from this additional tax shall be deposited in the health services account created under RCW 43.72.900 by the twenty-fifth day of the following month.

NEW SECTION. Sec. 4. A new section is added to chapter 82.26 RCW to read as follows:

In addition to the taxes imposed upon the wholesale sales price of tobacco products set forth in RCW 82.26.020 and 82.26.025, a surtax is imposed equal to ninety-three and three-quarters percent of taxes levied under RCW 82.26.020, effective January 1, 2002. The surtax payable under this subsection shall be deposited in the health services account created under RCW 43.72.900 for the purposes set forth in that section.



COMPLETE TEXT OF Initiative Measure 775

AN ACT Relating to regulating and improving long-term in-home care services; amending RCW 74.39A.030 and 74.39A.095; adding new sections to chapter 74.39A RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 70.127 RCW; adding a new section to chapter 74.09 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. FINDINGS. The people of the state of Washington find as follows:

(1) Thousands of Washington seniors and persons with disabilities live independently in their own homes, which they prefer and is less costly than institutional care such as nursing homes.

(2) Many Washington seniors and persons with disabilities currently receive long-term in-home care services from individual providers hired directly by them under the medicaid personal care, community options programs entry system, or chore services program.

(3) Quality long-term in-home care services allow Washington seniors, persons with disabilities, and their families the choice of allowing seniors and persons with disabilities to remain in their homes, rather than forcing them into institutional care such as nursing homes. Long-term in-home care services are also less costly, saving Washington taxpayers significant amounts through lower reimbursement rates.

(4) The quality of long-term in-home care services in Washington would benefit from improved regulation, higher standards, better accountability, and improved access to such services. The quality of long-term in-home care services would further be improved by a well-trained, stable individual provider work force earning reasonable wages and benefits.

(5) Washington seniors and persons with disabilities would benefit from the establishment of an authority that has the power and duty to regulate and improve the quality of long-term in-home care services.

(6) The authority should ensure that the quality of long-term in-home care services provided by individual providers is improved through better regulation, higher standards, increased accountability, and the enhanced ability to obtain services. The authority should also encourage stability in the individual provider work force through collective bargaining and by providing training opportunities.

NEW SECTION. Sec. 2. AUTHORITY CREATED. (1) The home care quality authority is established to regulate and improve the quality of long-term in-home care services by recruiting, training, and stabilizing the work force of individual providers.



COMPLETE TEXT OF Initiative Measure 775 (cont.)

(2) The authority consists of a board of nine members appointed by the governor. Five board members shall be current and/or former consumers of long-term in-home care services provided for functionally disabled persons, at least one of whom shall be a person with a developmental disability; one board member shall be a representative of the developmental disabilities planning council; one board member shall be a representative of the governor's committee on disability issues and employment; one board member shall be a representative of the state council on aging; and one board member shall be a representative of the Washington state association of area agencies on aging. Each board member serves a term of three years. If a vacancy occurs, the governor will make an appointment to become immediately effective for the unexpired term. Each board member is eligible for reappointment and may serve no more than two consecutive terms. In making appointments, the governor will take into consideration any nominations or recommendations made by the groups or agencies represented.

NEW SECTION. Sec. 3. DEFINITIONS. The definitions in this section apply throughout RCW 74.39A.030 and 74.39A.095 and sections 1 through 9 and 12 through 14 of this act unless the context clearly requires otherwise.

- (1) "Authority" means the home care quality authority.
- (2) "Board" means the board created under section 2 of this act.
- (3) "Consumer" means a person to whom an individual provider provides any such services.
- (4) "Individual provider" means a person, including a personal aide, who has contracted with the department to provide personal care or respite care services to functionally disabled persons under the medicaid personal care, community options program entry system, chore services program, or respite care program, or to provide respite care or residential services and support to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care as defined in RCW 74.13.270.

NEW SECTION. Sec. 4. AUTHORITY DUTIES. (1) The authority must carry out the following duties:

- (a) Establish qualifications and reasonable standards for accountability for and investigate the background of individual providers and prospective individual providers, except in cases where, after the department has sought approval of any appropriate amendments or waivers under section 14 of this act, federal law or regulation requires that such qualifications and standards for accountability be established by another entity in order to preserve eligibility for federal funding. Qualifications established must include compliance with the minimum requirements for training and satisfactory criminal background checks as provided in RCW 74.39A.050 and confirmation that the individual provider or prospective individual provider is not currently listed on any long-term care abuse and neglect registry used by the department at the time of the investigation;
- (b) Undertake recruiting activities to identify and recruit individual providers and prospective individual providers;
- (c) Provide training opportunities, either directly or through contract, for individual providers, prospective individual providers, consumers, and prospective consumers;
- (d) Provide assistance to consumers and prospective consumers in finding individual providers and prospective individual providers through the establishment of a referral registry of individual providers and prospective individual providers. Before placing an individual provider or prospective individual provider on the refer-

ral registry, the authority shall determine that:

- (i) The individual provider or prospective individual provider has met the minimum requirements for training set forth in RCW 74.39A.050;
- (ii) The individual provider or prospective individual provider has satisfactorily undergone a criminal background check conducted within the prior twelve months; and
- (iii) The individual provider or prospective individual provider is not listed on any long-term care abuse and neglect registry used by the department;
- (e) Remove from the referral registry any individual provider or prospective individual provider the authority determines not to meet the qualifications set forth in (d) of this subsection or to have committed misfeasance or malfeasance in the performance of his or her duties as an individual provider. The individual provider or prospective individual provider, or the consumer to which the individual provider is providing services, may request a fair hearing to contest the removal from the referral registry, as provided in chapter 34.05 RCW;
- (f) Provide routine, emergency, and respite referrals of individual providers and prospective individual providers to consumers and prospective consumers who are authorized to receive long-term in-home care services through an individual provider;
- (g) Give preference in the recruiting, training, referral, and employment of individual providers and prospective individual providers to recipients of public assistance or other low-income persons who would qualify for public assistance in the absence of such employment; and
- (h) Cooperate with the department, area agencies on aging, and other federal, state, and local agencies to provide the services described and set forth in this section. If, in the course of carrying out its duties, the authority identifies concerns regarding the services being provided by an individual provider, the authority must notify the relevant area agency or department case manager regarding such concerns.

(2) In determining how best to carry out its duties, the authority must identify existing individual provider recruitment, training, and referral resources made available to consumers by other state and local public, private, and nonprofit agencies. The authority may coordinate with the agencies to provide a local presence for the authority and to provide consumers greater access to individual provider recruitment, training, and referral resources in a cost-effective manner. Using requests for proposals or similar processes, the authority may contract with the agencies to provide recruitment, training, and referral services if the authority determines the agencies can provide the services according to reasonable standards of performance determined by the authority. The authority must provide an opportunity for consumer participation in the determination of the standards.

NEW SECTION. Sec. 5. DEPARTMENT DUTIES. The department must perform criminal background checks for individual providers and prospective individual providers and ensure that the authority has ready access to any long-term care abuse and neglect registry used by the department.

NEW SECTION. Sec. 6. EMPLOYMENT RELATIONSHIP--CONSUMER RIGHTS. (1) Solely for the purposes of collective bargaining, the authority is the public employer, as defined in chapter 41.56 RCW, of individual providers, who are public employees, as defined in chapter 41.56 RCW, of the authority.

(2) Chapter 41.56 RCW governs the employment relationship between the authority and individual providers, except as otherwise expressly provided in this act and except as follows:

- (a) The only unit appropriate for the purpose of collective bargaining under RCW 41.56.060 is a statewide unit of all individual providers;



COMPLETE TEXT OF Initiative Measure 775 (cont.)

(b) The showing of interest required to request an election under RCW 41.56.060 is ten percent of the unit, and any intervener seeking to appear on the ballot must make the same showing of interest;

(c) The mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480 apply;

(d) Individual providers do not have the right to strike; and

(e) Individual providers who are related to, or family members of, consumers or prospective consumers are not, for that reason, exempt from this act or chapter 41.56 RCW.

(3) Individual providers who are employees of the authority under subsection (1) of this section are not, for that reason, employees of the state for any purpose.

(4) Consumers and prospective consumers retain the right to select, hire, supervise the work of, and terminate any individual provider providing services to them. Consumers may elect to receive long-term in-home care services from individual providers who are not referred to them by the authority.

(5) In implementing and administering this act, neither the authority nor any of its contractors may reduce or increase the hours of service for any consumer below or above the amount determined to be necessary under any assessment prepared by the department or an area agency on aging.

(6)(a) The authority, the area agencies on aging, or their contractors under this act may not be held vicariously liable for the action or inaction of any individual provider or prospective individual provider, whether or not that individual provider or prospective individual provider was included on the authority's referral registry or referred to a consumer or prospective consumer.

(b) The members of the board are immune from any liability resulting from implementation of this act.

(7) Nothing in this section affects the state's responsibility with respect to the state payroll system or unemployment insurance for individual providers.

NEW SECTION. Sec. 7. POWERS. In carrying out its duties under this act, the authority may:

(1) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties or exercise of its powers, including contracts with public and private agencies, organizations, corporations, and individuals to pay them for services rendered or furnished;

(2) Offer and provide recruitment, training, and referral services to providers of long-term in-home care services other than individual providers and prospective individual providers, for a fee to be determined by the authority;

(3) Issue rules under the administrative procedure act, chapter 34.05 RCW, as necessary for the purpose and policies of this act;

(4) Establish offices, employ and discharge employees, agents, and contractors as necessary, and prescribe their duties and powers and fix their compensation, incur expenses, and create such liabilities as are reasonable and proper for the administration of this act;

(5) Solicit and accept for use any grant of money, services, or property from the federal government, the state, or any political subdivision or agency thereof, including federal matching funds under Title XIX of the federal social security act, and do all things necessary to cooperate with the federal government, the state, or any political subdivision or agency thereof in making an application for any grant;

(6) Coordinate its activities and cooperate with similar agencies in other states;

(7) Establish technical advisory committees to assist the board;

(8) Keep records and engage in research and the gathering of relevant statistics;

(9) Acquire, hold, or dispose of real or personal property or any interest therein, and construct, lease, or otherwise provide facilities for the activities conducted under this chapter, provided that the authority may not exercise any power of eminent domain;

(10) Sue and be sued in its own name;

(11) Delegate to the appropriate persons the power to execute contracts and other instruments on its behalf and delegate any of its powers and duties if consistent with the purposes of this chapter; and

(12) Do other acts necessary or convenient to execute the powers expressly granted to it.

NEW SECTION. Sec. 8. PERFORMANCE REVIEW. (1) The joint legislative audit and review committee will conduct a performance review of the authority every two years and submit the review to the legislature and the governor. The first review will be submitted before December 1, 2006.

(2) The performance review will include an evaluation of the health, welfare, and satisfaction with services provided of the consumers receiving long-term in-home care services from individual providers under this act, including the degree to which all required services have been delivered, the degree to which consumers receiving services from individual providers have ultimately required additional or more intensive services, such as home health care, or have been placed in other residential settings or nursing homes, the promptness of response to consumer complaints, and any other issue the committee deems relevant.

(3) The performance review will provide an explanation of the full cost of individual provider services, including the administrative costs of the authority, unemployment compensation, social security and medicare payroll taxes paid by the department, and area agency on aging home care oversight costs.

(4) The performance review will make recommendations to the legislature and the governor for any amendments to this act that will further ensure the well-being of consumers and prospective consumers under this act, and the most efficient means of delivering required services. In addition, the first performance review will include findings and recommendations regarding the appropriateness of the authority's assumption of responsibility for verification of hours worked by individual providers, payment of individual providers, and other duties.

NEW SECTION. Sec. 9. FUNDING. (1) The governor must submit a request for funds necessary to administer this act and to implement any collective bargaining agreement entered into under section 6 of this act or for legislation necessary to implement any such agreement within ten days of the date on which the agreement is ratified or, if the legislature is not in session, within ten days after the next legislative session convenes. The legislature must approve or reject the submission of the request for funds as a whole. If the legislature rejects or fails to act on the submission, any such agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

(2) When any increase in individual provider wages or benefits is negotiated or agreed to by the authority, no increase in wages or benefits negotiated or agreed to under this act will take effect unless and until, before its implementation, the department has determined that the increase is consistent with federal law and federal financial participation in the provision of services under Title XIX of the federal social security act.

(3) After the expiration date of any collective bargaining agree-



COMPLETE TEXT OF Initiative Measure 775 (cont.)

ment entered into under section 6 of this act, all of the terms and conditions specified in any such agreement remain in effect until the effective date of a subsequent agreement, not to exceed one year from the expiration date stated in the agreement.

Sec. 10. RCW 74.39A.030 and 1995 1st sp.s. c 18 s 2 are each amended to read as follows:

(1) To the extent of available funding, the department shall expand cost-effective options for home and community services for consumers for whom the state participates in the cost of their care.

(2) In expanding home and community services, the department shall: (a) Take full advantage of federal funding available under Title XVIII and Title XIX of the federal social security act, including home health, adult day care, waiver options, and state plan services; and (b) be authorized to use funds available under its community options program entry system waiver granted under section 1915(c) of the federal social security act to expand the availability of in-home, adult residential care, adult family homes, enhanced adult residential care, and assisted living services. By June 30, 1997, the department shall undertake to reduce the nursing home medicaid census by at least one thousand six hundred by assisting individuals who would otherwise require nursing facility services to obtain services of their choice, including assisted living services, enhanced adult residential care, and other home and community services. If a resident, or his or her legal representative, objects to a discharge decision initiated by the department, the resident shall not be discharged if the resident has been assessed and determined to require nursing facility services. In contracting with nursing homes and boarding homes for enhanced adult residential care placements, the department shall not require, by contract or through other means, structural modifications to existing building construction.

(3)(a) The department shall by rule establish payment rates for home and community services that support the provision of cost-effective care. In the event of any conflict between any such rule and a collective bargaining agreement entered into under sections 6 and 9 of this act, the collective bargaining agreement prevails.

(b) The department may authorize an enhanced adult residential care rate for nursing homes that temporarily or permanently convert their bed use for the purpose of providing enhanced adult residential care under chapter 70.38 RCW, when the department determines that payment of an enhanced rate is cost-effective and necessary to foster expansion of contracted enhanced adult residential care services. As an incentive for nursing homes to permanently convert a portion of its nursing home bed capacity for the purpose of providing enhanced adult residential care, the department may authorize a supplemental add-on to the enhanced adult residential care rate.

(c) The department may authorize a supplemental assisted living services rate for up to four years for facilities that convert from nursing home use and do not retain rights to the converted nursing home beds under chapter 70.38 RCW, if the department determines that payment of a supplemental rate is cost-effective and necessary to foster expansion of contracted assisted living services.

Sec. 11. RCW 74.39A.095 and 2000 c 87 s 5 are each amended to read as follows:

(1) In carrying out case management responsibilities established

under RCW 74.39A.090 for consumers who are receiving services under the medicaid personal care, community options programs entry system or chore services program through an individual provider, each area agency on aging shall provide (~~adequate~~) oversight of the care being provided to consumers receiving services under this section (~~(- Such oversight shall)~~) to the extent of available funding. Case management responsibilities incorporate this oversight, and include, but (is) are not limited to:

(a) Verification that ~~(the)~~ any individual provider who has not been referred to a consumer by the authority established under this act has met any training requirements established by the department;

(b) Verification of a sample of worker time sheets;

(c) ~~(Home visits or telephone contacts sufficient to ensure that the plan of care is being appropriately implemented))~~ Monitoring the consumer's plan of care to ensure that it adequately meets the needs of the consumer, through activities such as home visits, telephone contacts, and responses to information received by the area agency on aging indicating that a consumer may be experiencing problems relating to his or her home care;

(d) Reassessment and reauthorization of services;

(e) Monitoring of individual provider performance. If, in the course of its case management activities, the area agency on aging identifies concerns regarding the care being provided by an individual provider who was referred by the authority, the area agency on aging must notify the authority regarding its concerns; and

(f) Conducting criminal background checks or verifying that criminal background checks have been conducted for any individual provider who has not been referred to a consumer by the authority.

(2) The area agency on aging case manager shall work with each consumer to develop a plan of care under this section that identifies and ensures coordination of health and long-term care services that meet the consumer's needs. In developing the plan, they shall utilize, and modify as needed, any comprehensive community service plan developed by the department as provided in RCW 74.39A.040. The plan of care shall include, at a minimum:

(a) The name and telephone number of the consumer's area agency on aging case manager, and a statement as to how the case manager can be contacted about any concerns related to the consumer's well-being or the adequacy of care provided;

(b) The name and telephone numbers of the consumer's primary health care provider, and other health or long-term care providers with whom the consumer has frequent contacts;

(c) A clear description of the roles and responsibilities of the area agency on aging case manager and the consumer receiving services under this section;

(d) The duties and tasks to be performed by the area agency on aging case manager and the consumer receiving services under this section;

(e) The type of in-home services authorized, and the number of hours of services to be provided;

(f) The terms of compensation of the individual provider;

(g) A statement that the individual provider has the ability and willingness to carry out his or her responsibilities relative to the plan of care; and

(h)(i) Except as provided in (h)(ii) of this subsection, a clear statement indicating that a consumer receiving services under this section has the right to waive any of the case management services offered by the area agency on aging under this section, and a clear indication of whether the consumer has, in fact, waived any of these services.

(ii) The consumer's right to waive case management services does not include the right to waive reassessment or reauthorization of services, or verification that services are being provided in



COMPLETE TEXT OF Initiative Measure 775 (cont.)

accordance with the plan of care.

(3) Each area agency on aging shall retain a record of each waiver of services included in a plan of care under this section.

(4) Each consumer has the right to direct and participate in the development of their plan of care to the maximum practicable extent of their abilities and desires, and to be provided with the time and support necessary to facilitate that participation.

(5) A copy of the plan of care must be distributed to the consumer's primary care provider, individual provider, and other relevant providers with whom the consumer has frequent contact, as authorized by the consumer.

(6) The consumer's plan of care shall be an attachment to the contract between the department, or their designee, and the individual provider.

(7) If the department or area agency on aging case manager finds that an individual provider's inadequate performance or inability to deliver quality care is jeopardizing the health, safety, or well-being of a consumer receiving service under this section, the department or the area agency on aging may take action to terminate the contract between the department and the individual provider. If the department or the area agency on aging has a reasonable, good faith belief that the health, safety, or well-being of a consumer is in imminent jeopardy, the department or area agency on aging may summarily suspend the contract pending a fair hearing. The consumer may request a fair hearing to contest the planned action of the case manager, as provided in chapter 34.05 RCW. When the department or area agency on aging terminates or summarily suspends a contract under this subsection, it must provide oral and written notice of the action taken to the authority. The department may by rule adopt guidelines for implementing this subsection.

(8) The department or area agency on aging may reject a request by a consumer receiving services under this section to have a family member or other person serve as his or her individual provider if the case manager has a reasonable, good faith belief that the family member or other person will be unable to appropriately meet the care needs of the consumer. The consumer may request a fair hearing to contest the decision of the case manager, as provided in chapter 34.05 RCW. The department may by rule adopt guidelines for implementing this subsection.

NEW SECTION. Sec. 12. In addition to the entities listed in RCW 41.56.020, this chapter applies to individual providers under sections 6 and 9 of this act.

NEW SECTION. Sec. 13. The authority established by this act is not subject to regulation for purposes of this chapter.

NEW SECTION. Sec. 14. The department must seek approval from the federal health care financing administration of any amendments to the existing state plan or waivers necessary to ensure federal financial participation in the provision of services to consumers under Title XIX of the federal social security act.

NEW SECTION. Sec. 15. CODIFICATION. Sections 1 through 9 of this act are each added to chapter 74.39A RCW. Section 12 of this act is added to chapter 41.56 RCW. Section 13 of this act is added to chapter 70.127 RCW. Section 14 of this act is added to chapter 74.09 RCW.

NEW SECTION. Sec. 16. CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 17. SEVERABILITY. 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.



COMPLETE TEXT OF Engrossed Senate Joint Resolution 8208

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article IV, section 7 of the Constitution of the state of Washington to read as follows:

Article IV, section 7. The judge of any superior court may hold a superior court in any county at the request of the judge of the superior court thereof, and upon the request of the governor it shall be his or her duty to do so. A case in the superior court may be tried by a judge(;) pro tempore(~~(; who must be)~~) either with the agreement of the parties if the judge pro tempore is a member of the bar, is agreed upon in writing by the parties litigant(;) or their attorneys of record, and is approved by the court and sworn to try the case; or without the agreement of the parties if the judge pro tempore is a sitting elected judge and is acting as a judge pro tempore pursuant to supreme court rule. The supreme court rule must require assignments of judges pro tempore based on the judges' experience and must provide for the right, exercisable once during a case, to a change of judge pro tempore. Such right shall be in addition to any other right provided by law. However, if a previously elected judge of the superior court retires leaving a pending case in which the judge has made discretionary rulings, the judge is entitled to hear the pending case as a judge pro tempore without any written agreement.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.



COMPLETE TEXT OF House Joint Resolution 4202

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article XXIX, section 1 of the Constitution of the state of Washington to read as follows:

Article XXIX, section 1. Notwithstanding the provisions of sections 5, and 7 of Article VIII and section 9 of Article XII or any other section or article of the Constitution of the state of Washington, the moneys of any public pension or retirement fund, industrial insurance trust fund, (~~(or)~~) fund held in trust for the benefit of persons with developmental disabilities, or any other fund or account placed by law under the investment authority of the state investment board may be invested as authorized by law.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.