

AMENDED IN ASSEMBLY APRIL 12, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 911

Introduced by Assembly Member Nazarian

(Principal coauthor: Senator Pan)

February 17, 2021

An act to add ~~Chapter 15 (commencing with Section 9900)~~ to Article 6 (*commencing with Section 9140*) to Chapter 2 of Division 8.5 of the Welfare and Institutions Code, relating to long-term services and supports.

LEGISLATIVE COUNSEL'S DIGEST

AB 911, as amended, Nazarian. ~~Long-term services and supports. Long-Term Services and Supports (LTSS) Benefit Task Force.~~

Existing law, contingent upon the appropriation of funds for that purpose by the Legislature, establishes the Aging and Disability Resource Connection (ADRC) program, to be administered by the California Department of Aging, to provide information to consumers and their families on available long-term services and supports (LTSS) programs and to assist older adults, caregivers, and persons with disabilities in accessing LTSS programs at the local level.

~~By executive order, the Governor has ordered that a master plan for aging be developed and issued to serve as a blueprint to implement strategies and partnerships that promote healthy aging and prepare the state for upcoming demographic changes. The executive order requires the Secretary of California Health and Human Services to convene a Master Plan for Aging Stakeholder Advisory Committee, which includes a Long-Term Care Subcommittee.~~

Existing law requires the secretary, in coordination with the Director of the California Department of Aging, to lead the development and implementation of the master plan established pursuant to that executive order. Existing law requires the secretary and the director, with the assistance of the workgroup, to work with specified agencies, as needed, to identify policies, efficiencies, and strategies necessary to implement the master plan. Existing law requires the workgroup to solicit input and gather information to assist with the implementation of the master plan.

This bill would establish the California Long-Term Services and Supports Benefits Board (LTSS Board), to be composed of 10 specified members, including, among others, the Treasurer as chair, the Secretary of California Health and Human Services as vice chair, and 3 members to be appointed by the Governor. The bill would require the LTSS Board to manage and invest revenue deposited in the California Long-Term Services and Supports Benefits Trust Fund (LTSS Trust), which the bill would create in the State Treasury, to, upon appropriation, finance long-term services and supports for eligible individuals. The bill would require the Long-Term Supports and Services Subcommittee of the Master Plan on Aging to provide ongoing advice and recommendations to the board.

This bill would require the department to establish an LTSS Benefit Task Force, or utilize an existing board, commission, committee, or task force, to focus on LTSS benefit needs in the State of California. The bill would require the department to report to the Legislature by July 1, 2023, on the specified findings and recommendations of the LTSS Benefit Task Force.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:
3 (1) Almost 8,000,000 Californians are either older adults or
4 individuals with physical and mental disabilities. This population
5 includes individuals with developmental disabilities, individuals
6 with traumatic injuries or acquired disabilities, and individuals 65
7 years of age or older with functional impairments due to age.

1 (2) This population is expected to grow significantly over the
2 next decade, primarily due to the longer life expectancy we now
3 enjoy and the growing number of people living longer with physical
4 and mental disabilities.

5 (3) As a result, these individuals will need more and better
6 access to long-term services and supports. Based on data from the
7 2015 American Community Survey, over 1,000,000 Californians
8 will need long-term services and supports by 2030. Of those, 55
9 percent will be 65 years of age or older.

10 (4) The current private long-term services and supports market
11 is broken. Over the last 20 years, the number of companies offering
12 these products has shrunk from over 100 to less than 12. This
13 leaves families to rely on their own resources. Paying out of pocket
14 for long-term services and supports is highly expensive and creates
15 a significant long-term financial and social burden for families.

16 (5) According to the AARP/SCAN 2020 LTSS Scorecard, only
17 4.2 percent of Californians over the age of 40 have purchased
18 long-term care insurance. The cost of private pay nursing home
19 care is 232 percent of the annual median income of California
20 households with persons 65 years of age or older. The lowest cost
21 care option as well as the most preferred care option, home care,
22 is 71 percent of the annual median income of older California
23 households.

24 (6) When costs are high for people who pay privately and do
25 not have long-term care insurance, they will more quickly deplete
26 their life savings and turn to the public safety net. If that safety net
27 is inadequate, people may rely so heavily on family caregivers that
28 those caregivers damage their own health and well-being and
29 long-term earnings due to cutting back on work hours or dropping
30 out of the workforce altogether.

31 (7) At least 90 percent of older adults receiving help with daily
32 activities receive some informal care, and about two-thirds receive
33 only informal care. AARP's "Cost of Caregiving" research showed
34 that on average, family caregivers pay nearly \$7,000 out of pocket
35 each year to assist their older loved ones. Nationally, family
36 caregivers, who are the backbone of our LTSS system, are
37 overwhelmingly women (86 percent), most are people of color (59
38 percent), and about one-quarter are immigrants. These caregivers
39 usually work without any compensation and almost one-half of
40 informal caregivers said they have personal tasks they cannot

1 handle or do not have enough time for themselves. This impacts
2 their ability to participate in the workforce and save for retirement,
3 and ultimately contributes to the “feminization” of poverty. Nearly
4 two-thirds of individuals 65 years of age and over living in poverty
5 are women. The failure to address this will increase poverty for
6 the next generation.

7 (8) Younger working people with disabilities, with or without
8 families, bear the significant burden of paying out-of-pocket for
9 long-term services and supports when they do not qualify for
10 Medi-Cal. Younger working people with disabilities find it difficult
11 to save for retirement, or even contemplate retirement, due to the
12 need to continually pay for the long-term services and supports
13 they need to maintain health, independence, and function.

14 (9) Long-term services and supports help individuals maintain
15 their dignity, autonomy, individuality, privacy, and sense of safety,
16 security, and order. Most individuals prefer to remain in their
17 homes for as long as possible, particularly in light of the COVID-19
18 pandemic.

19 (10) Long-term services and supports include a broad range of
20 services that enable older adults and individuals with physical and
21 mental disabilities to live independently in their communities.
22 They include personal care services, assistance with health needs,
23 assistance with activities of daily living such as bathing, dressing,
24 toileting, and cooking, adult day services, transportation, social
25 services, in-home support care, assisted living, home modifications,
26 assistive technology, nutrition assistance, person-centered care
27 coordination, supportive services, and nursing facility services.

28 (11) Long-term services and supports are not adequately covered
29 by Medicare. The Medi-Cal program covers some long-term care
30 services and supports, but because “spending down” to become
31 eligible for Medi-Cal is the primary means by which older adults
32 and individuals with disabilities currently receive access to paid
33 long-term services and supports, the shifting demographics will
34 create significant budget pressures for the Medi-Cal program and
35 the In-Home Supportive Services (IHSS) program.

36 (12) This crisis worsens every day. It is one that can no longer
37 be ignored. It is bankrupting families and steadily increasing the
38 burden on all taxpayers. The solution must be the creation of, and
39 funding for, of a long-term services and support benefit. This will
40 require placing shared funding responsibilities on all Californians,

1 both those that ultimately will use the benefit and through other
2 dedicated sources of funding that are outside of the Medicaid
3 program or the General Fund.

4 (13) This legislation creates the infrastructure to administer the
5 benefit, and the recently completed state-funded actuarial study
6 for funding long-term services and supports provides the roadmap.

7 SEC. 2. Chapter 15 (commencing with Section 9900) is added
8 to Division 8.5 of the Welfare and Institutions Code, to read:

9

10 **CHAPTER 15. LONG-TERM SERVICES AND SUPPORTS**

11

12 9900. (a) There is hereby created in state government the
13 California Long-Term Services and Supports Benefits Board (LTSS
14 Board), which shall consist of the following ten members:

15 (1) The Treasurer, who shall serve as the chair.

16 (2) The Secretary of California Health and Human Services,
17 who shall serve as the vice chair.

18 (3) The Director of the California Department of Aging.

19 (4) The Director of Finance, or the director's designee.

20 (5) The Controller, or the controller's designee.

21 (6) An individual with expertise in the provision and financing
22 of long-term services and supports who shall be appointed by the
23 Senate Committee on Rules.

24 (7) An individual with expertise in the provision and financing
25 of long-term services and supports who shall be appointed by the
26 Speaker of the Assembly.

27 (8) The following individuals, who shall be appointed by the
28 Governor:

29 (A) A person who is 60 years of age or older and who is a
30 consumer of long-term services and supports.

31 (B) A person who has lived with a disability, a chronic
32 condition, or both, for a majority of their life and who is a
33 consumer of long-term services and supports.

34 (C) A person who serves as an unpaid family caregiver to an
35 older adult or individual with a disability.

36 (b) (1) The LTSS Board shall manage and invest revenue
37 deposited in the California Long-Term Services and Supports
38 Benefits Trust Fund (LTSS Trust), which is hereby created in the
39 State Treasury. Moneys in the fund shall be available, upon
40 appropriation by the Legislature, to finance long-term services and

1 supports for eligible older adults and individuals with physical and
2 mental disabilities in California.

3 (2) After sufficient funds are deposited in the LTSS Trust to be
4 self-sustaining, all costs of administration shall be paid out of funds
5 in the LTSS Trust.

6 9905. The Long-Term Supports and Services Subcommittee
7 of the Master Plan on Aging as the Advisory Committee shall
8 provide ongoing advice and recommendations to the LTSS Board
9 established pursuant to Section 9900.

10 SEC. 2. Article 6 (commencing with Section 9140) is added to
11 Chapter 2 of Division 8.5 of the Welfare and Institutions Code, to
12 read:

13

14 Article 6. Long-Term Services and Supports Benefit Task Force

15

16 9140. (a) (1) The California Department of Aging shall
17 establish a Long-Term Services and Supports (LTSS) Benefit Task
18 Force to focus on LTSS benefit needs in the State of California.

19 (2) In establishing the LTSS Benefit Task Force pursuant to
20 paragraph (1), the department may utilize an existing board,
21 commission, committee, or task force in lieu of creating a new task
22 force, if the department deems an existing board, commission,
23 committee, or task force to be appropriate for these purposes.

24 (b) (1) The department shall report to the Legislature by July
25 1, 2023, on the findings and recommendations of the LTSS Benefit
26 Task Force.

27 (2) The department's report pursuant to paragraph (1) shall
28 identify services and supports needed for older adults and people
29 with disabilities to age well and live in the housing of their
30 choosing, and at a minimum shall include all of the following:

31 (A) Projections for aging populations.

32 (B) Be inclusive, and when applicable, include people with
33 disabilities.

34 (C) Identify unmet needs for aging populations and people with
35 disabilities.

36 (D) Identify current programs utilized by aging populations and
37 people with disabilities for services and supports.