

SENATE BILL REPORT

SHB 2109

As Reported by Senate Committee On:
Financial Institutions & Insurance, March 25, 2015

Title: An act relating to creating the Washington small business retirement marketplace.

Brief Description: Creating the Washington small business retirement marketplace.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Springer, Manweller, Pettigrew, Harris, Kilduff, S. Hunt, Bergquist, Lytton, Tharinger and Santos).

Brief History: Passed House: 3/06/15, 64-34.

Committee Activity: Financial Institutions & Insurance: 3/19/15, 3/25/15 [DPA-WM, w/oRec].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Benton, Chair; Mullet, Ranking Minority Member; Darneille, Hobbs, Litzow, Pedersen and Roach.

Minority Report: That it be referred without recommendation.

Signed by Senator Angel, Vice Chair.

Staff: Susan Jones (786-7404)

Background: Some private sector employers provide their employees with retirement benefits, such as 401(k) plans, while other employers may provide no retirement benefits to their employees. Some small business employers may not offer the retirement plans due to concerns about costs, administrative burdens, and potential liability.

Private sector employers offering retirement plans to their employees must comply with the Employee Retirement Income Security Act (ERISA). In order to qualify for tax benefits available for both employers and employees, employers must maintain adequate record keeping, fairness, and funding in their retirement plans as specified by ERISA.

Private sector employees participate in Social Security, and also have federally regulated personal retirement investment options such as the Individual Retirement Account (IRA), the

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Payroll Deduction IRA; myRA, a Roth-IRA; and the SIMPLE IRA plans, a retirement plan for small employers allowing employer contributions.

Banks, investment firms, financial planners, and others advise and assist individuals in planning and investing for retirement.

Summary of Bill (Recommended Amendments): Creation. The Washington small business retirement marketplace (marketplace) is created. The director (director) of Department of Commerce (Commerce) must contract with a private sector entity to establish a program that connects eligible employers with qualifying plans. The program must:

- establish a protocol for reviewing and approving the qualifications of private sector financial services firms seeking to participate in the marketplace;
- design and operate an Internet website that includes information about how eligible employers can participate in the marketplace;
- develop marketing materials about the marketplace that can be distributed electronically, posted on various agency websites, or inserted in agency mailers;
- identify and promote existing federal and state tax credits and benefits for employers and employees that are related to encouraging retirement savings or participating in retirement plans; and
- promote the benefits of retirement savings and financial literacy.

Only self-employed individuals, sole proprietors, and employers with fewer than 100 qualified employees are eligible to participate in the marketplace. Participation in the marketplace is completely voluntary.

Private sector financial services firms that may participate in the marketplace must be licensed and in good standing by either the Department of Financial Institutions or the Office of the Insurance Commissioner and meet all federal laws and regulations to offer retirement plans. The director must ensure by rule that there is objective criteria in the protocol and that the protocol does not provide unfair advantage to the private sector entity establishing the protocol. The director must direct the private sector entity retained to assure that licensed professionals who assist enrolling employees in a plan offered through the marketplace may receive commissions or other compensation.

Types of Plans. The director must approve a diverse array of private retirement plan options, including life insurance plans that are designed for retirement purposes, and at least two types of plans for eligible employer participation: (1) a SIMPLE IRA-type plan that provides for employer contributions to participating enrollee accounts; and (2) a payroll deduction individual retirement account type plan.

Product Options. The financial services firms participating in the marketplace must offer a minimum of two product options: (1) a target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement; and (2) a balanced fund. The marketplace must offer myRA. The products must meet federal law or regulation for the plans.

Rollovers. The approved plans must include the option for enrollees to roll pretax contributions into a different IRA or another plan after ceasing participation in a marketplace

plan. The director must address how rollovers are handled for eligible Washington employers that have workers in other states, and whether out-of-state employees with existing IRAs may roll them into the marketplace plans.

Fees. Qualifying plans may not charge enrollees more than 100 basis points in total annual fees, and must provide information about their plans' historical investment performance.

Rules. The director must adopt rules necessary to allow the marketplace to operate as authorized. The rules must be proposed by January 1 of the year of implementation and rules must not be adopted until after the end of the regular legislative session.

Reporting. The director reports biennially to the Legislature on the effectiveness and efficiency of the marketplace, including the levels of enrollment and the retirement savings levels of participating enrollees.

Funding and Incentive Payments. In addition to any appropriated funds, the director may use private funding sources, including private foundation grants, to pay for marketplace expenses. On behalf of the marketplace, Commerce must seek federal and private grants and is authorized to accept any funds awarded to Commerce for use in the marketplace. Using appropriated funds, and funds provided by private foundations or other private sector entities, the director may provide incentive payments to participating employers that enroll in the marketplace.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE (Recommended Amendments): Definitions are clarified and added. Clarifies that participation by employers and employees is voluntary; provides that approved plans must offer a minimum of two types of products, target date and balanced funds; and the marketplace must offer the myRA product. Approved plans may include life insurance plans designed for retirement purposes. At least two firms must be participating but all qualifying financial services firms, those licensed and in good standing with the Department of Financial Institutions and the Office of the Insurance Commissioner, must be approved and participation encouraged by Commerce. Commissions may be paid to licensed professionals who enroll employers. IRA rollovers must be addressed for out-of-state workers. Rules must be proposed by January 1 of an implementation year and adopted after the end of the legislative session. The the null and void clause is deleted.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed. The bill is null and void unless funded in the budget by June 30, 2015.

Staff Summary of Public Testimony on Substitute House Bill: PRO: This is a bill that has been around for a couple of years. It was born out of recognition of the statistics that the amount people have saved for their retirement by the time they reach retirement age is

astoundingly poor. The number of Washingtonians who have less than \$25,000 saved up by nearing retirement age is off the charts. If we don't find a mechanism to ameliorate that problem, they will be at the state's doorstep eventually. Once you get someone started saving, it is contagious and goes from person to person. Once a person starts a savings regime, they get used to it and get proud of it and continue it. But there needs to be a mechanism that is easy to get started. The concerns heard last year are taken care of. Current programs are not successful since there are many people not saving. A payroll deduction plan is the easiest, simplest, least expensive way for an employer and employee to start saving a little bit. The state becomes the portal and the private sector manages the money. The bill finds a way to help small businesses connect with the private sector in an easier, simpler format and encourages them to try to help their employees save. When small businesses are engaged in the lives of their employees to implement their retirement savings, we are going to have more success. There are so many choices and so many options, to the point of confusion in the marketplace. This approach allows an inexpensive way for employees to have limited options so you don't have option confusion and then they don't want to participate. This encourages people to look at their financial future. This will help eliminate the fear around investing. This helps the government be a partner, and will not push away the free market, but will encourage the free market. These will be products for the first-time investor and encourage them to invest for the long term.

OTHER: Every day, life insurance agents engage in direct encounter with hundreds of Washington residents regarding retirement. The bill should have specific reference to a diversity of options in the plans, including life insurance products directed toward retirement, like annuity programs. There should be room for the products available in this portal for the life insurance products. They are well-tailored with tax incentives. These must be voluntary for the employers and employees. This legislation is far better than last year's legislation. It is fine that the products are available to all businesses with 100 or fewer employees, but the bulk of small business have 20 or fewer employees. The product that comes out of this should be tailored to those smaller businesses. A broad diversity of products is available. There is a concern about the entity setting up the program, that they not have a conflict.

Persons Testifying: PRO: Representative Springer, prime sponsor; Bill Stauffacher, Securities Industry and Financial Markets Assn.; Erik Strom, Russell Investments.

OTHER: Mel Sorensen, American Council of Life Insurers; National Assn. of Insurance and Financial Advisors; Gary Smith, Independent Business Assn.

Persons Signed in to Testify But Not Testifying: PRO: Cathy MacCaul, American Assn. of Retired Persons.