
ENGROSSED SUBSTITUTE SENATE BILL 5826

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Mullet and Benton)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to creating the Washington small business
2 retirement marketplace; adding new sections to chapter 43.330 RCW;
3 adding a new section to chapter 43.320 RCW; and creating a new
4 section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that there is a
7 retirement savings access gap in Washington; that Americans reach the
8 median salary four years later than they did in 1980 and therefore
9 have four fewer years of savings opportunities; and that one in six
10 Americans retire in poverty. Employees who are unable to effectively
11 build their retirement savings risk living on low incomes in their
12 elderly years and are more likely to become dependent on state
13 services. Further, small businesses, which employ more than forty
14 percent of private sector employees in Washington, often choose not
15 to offer retirement plans to employees due to concerns about costs,
16 administrative burdens, and potential liability that they believe
17 such plans would place on their business. In response, the
18 legislature recognizes the work of the federal government in
19 addressing these issues by establishing the myRA program: A safe,
20 affordable, and accessible retirement vehicle designed to remove
21 barriers to retirement savings. In addition, the legislature

1 recognizes that many private financial services firms in Washington
2 currently offer high quality retirement options for small businesses
3 and their employees.

4 The Washington small business retirement marketplace is the most
5 effective, efficient, and sustainable way to promote increased
6 retirement savings in the state of Washington. The Washington small
7 business retirement marketplace will remove barriers to entry into
8 the retirement market for small businesses by educating small
9 employers on plan availability and promoting, without mandated
10 participation, qualified, low-cost, low-burden retirement savings
11 vehicles and myRA. The marketplace furthers greater retirement plan
12 access for the residents of Washington while ensuring that
13 individuals participating in these retirement plans will have all the
14 protections offered by the employee retirement income security act.
15 Further, the Washington small business retirement marketplace will
16 not pose any significant financial burden upon taxpayers. The
17 Washington small business retirement marketplace will be the best way
18 for Washington to close the retirement savings access gap, protect
19 the fiscal stability of the state and its citizens well into the
20 future, and further cement its place as a national leader in
21 retirement and investor promotion and protection.

22 NEW SECTION. **Sec. 2.** The definitions in this section apply
23 throughout this subchapter unless the context clearly requires
24 otherwise.

25 (1) "Balanced fund" means a mutual fund that has an investment
26 mandate to balance its portfolio holdings. The fund generally
27 includes a mix of stocks and bonds in varying proportions according
28 to the fund's investment outlook.

29 (2) "Eligible employer" means a person engaged in a business, an
30 industry, a profession, a trade, or any other entity that is
31 registered with the Washington state department of revenue, and
32 satisfies the requirements to participate in the Washington small
33 business retirement marketplace.

34 (3) "Enrollee" means any employee who is enrolled in an
35 individual retirement account offered by an eligible employer through
36 the Washington small business retirement marketplace.

37 (4) "myRA" means the myRA retirement program administered by the
38 United States department of treasury that is available to all
39 employers and employees with no fees or no minimum contribution

1 requirements. A myRA is a Roth IRA option and investments in these
2 accounts are backed by the United States department of treasury.

3 (5) "Participating employer" means any eligible employer with
4 employees enrolled in individual retirement accounts offered through
5 the Washington small business retirement marketplace.

6 (6) "Qualified default investment alternative" means types of
7 investments identified by the federal internal revenue service for
8 employees who do not make an investment choice or are automatically
9 enrolled in a retirement plan.

10 (7) "Qualified employee" means those workers who are defined by
11 the federal internal revenue service to be eligible to participate in
12 a specific retirement plan.

13 (8) "Qualifying plans" means retirement plan options offered by
14 private sector financial services firms that meet the requirements of
15 this subchapter to participate in the marketplace, and myRA.

16 (9) "Target date or similar fund" means a hybrid mutual fund that
17 automatically resets the asset mix of stocks, bonds, and cash
18 equivalents in its portfolio according to a selected time frame that
19 is appropriate for a particular investor. A target date is structured
20 to address a projected retirement date.

21 (10) "Washington small business retirement marketplace" or
22 "marketplace" means the retirement savings program created to connect
23 eligible employers and their employees with qualifying plans to
24 increase retirement savings.

25 NEW SECTION. **Sec. 3.** (1)(a) Subject to the availability of
26 funds under (b) of this subsection, the Washington small business
27 retirement marketplace is created. The director shall contract with a
28 private sector entity to establish a program that connects eligible
29 employers with qualifying plans. The contractor shall not include any
30 person regulated under chapter 21.20 or 48.23 RCW or who has a
31 financial interest in any plan offered in the marketplace. The
32 program must: (i) Establish a protocol for reviewing and approving
33 the qualifications of private sector financial services firms that
34 seek to participate in the marketplace; (ii) design and operate an
35 internet web site that includes information about how eligible
36 employers can participate in the marketplace; (iii) develop marketing
37 materials about the marketplace that can be distributed
38 electronically, posted on agency web sites that interact with
39 eligible employers, or inserted into mail from the department of

1 revenue, department of labor and industries, employment security
2 department, the office of minority and women's business enterprises,
3 department of licensing, and secretary of state's division of
4 corporations; (iv) identify and promote existing federal and state
5 tax credits and benefits for employers and employees that are related
6 to encouraging retirement savings or participating in retirement
7 plans; and (v) promote the benefits of retirement savings and other
8 information that promotes financial literacy. The director may
9 consult with the Washington state department of retirement systems,
10 the Washington state investment board, and the department of
11 financial institutions in designing and managing the marketplace.

12 (b) The department may use only federal or private funding
13 sources, including private foundation grants, to pay for marketplace
14 expenses. On behalf of the marketplace, the department shall seek
15 federal and private grants and is authorized to accept any funds
16 awarded to the department for use in the marketplace. No new state
17 funds may be expended for the purposes of the Washington small
18 business retirement marketplace.

19 (2)(a) Only self-employed individuals, sole proprietors, and
20 employers with fewer than one hundred qualified employees at the time
21 of enrollment, are eligible to participate in the marketplace. Prior
22 to connecting any eligible employer with a qualifying plan in the
23 marketplace, the director shall design a plan for the operation of
24 the marketplace. The marketplace must approve at least three types of
25 plans for eligible employer participation: (i) A SIMPLE IRA-type
26 target date or other similar fund, with asset allocations and
27 maturities designed to coincide with the expected date of retirement;
28 (ii) a SIMPLE IRA-type balanced fund; and (iii) myRA.

29 (b) The marketplace may offer a minimum of two product options
30 for the target date or other similar fund and a minimum of two
31 product options for the balanced fund. The options must include: (i)
32 A SIMPLE IRA-type program or other internal revenue service approved
33 employer plan that provides for employer contributions to
34 participating enrollee accounts; and (ii) a payroll deduction
35 individual retirement account type program or workplace-based
36 individual retirement accounts open to all workers in which the
37 employer does not contribute to the employees' accounts.

38 (c) The products must meet federal law or regulation for the
39 plans. A range of investment options must be provided to meet the
40 needs of investors with various levels of risk tolerance and various

1 ages. The director shall select the product options offered on the
2 marketplace and may add or remove product options to best meet the
3 needs of enrollees.

4 (d) The director shall approve a plan for the structure and
5 operation of the marketplace based on recommendations of the entity
6 retained pursuant to subsection (1) of this section.

7 (e) The plans and accounts must include the option for enrollees
8 to roll pretax contributions into a different individual retirement
9 account or another eligible retirement plan after ceasing
10 participation in a plan approved by the Washington small business
11 retirement marketplace.

12 NEW SECTION. **Sec. 4.** (1) Participation in the Washington small
13 business retirement marketplace is completely voluntary.

14 (2) Qualifying plans selected by the department to offer products
15 on the marketplace may not charge enrollees more than one hundred
16 basis points in total annual fees, and must provide information about
17 their plan's historical investment performance. Prior to approving a
18 product to be offered on the marketplace, the department must receive
19 verification from the department of financial institutions pursuant
20 to section 9 of this act that each qualifying plan meets the
21 requirements of this section.

22 (3) Enrollment in any plan offered in the marketplace is not an
23 entitlement and the legislature may modify or terminate the
24 marketplace and the products offered.

25 NEW SECTION. **Sec. 5.** The director shall consult with
26 organizations representing private sector employers, private sector
27 employees, private and nonprofit sector retirement plan
28 administrators and providers, and any other individuals or entities
29 that the director determines relevant to the development of an
30 effective and efficient method for operating the marketplace.

31 NEW SECTION. **Sec. 6.** The department shall not expose the state
32 of Washington as an employer or through administration of the
33 marketplace to any potential liability under the federal employee
34 retirement income act of 1974. As such, the department is
35 specifically prohibited from offering and operating a state-based
36 retirement plan for businesses or individuals who are not employed in
37 the state of Washington.

1 NEW SECTION. **Sec. 7.** Using funds provided by private
2 foundations or other private sector entities, the director may
3 provide incentive payments to participating employers that enroll in
4 the marketplace and referral payments or commissions to any person
5 licensed to sell securities under chapter 21.20 RCW or life insurance
6 or annuities under chapter 48.23 RCW who enrolls a qualifying
7 employer in a plan offered by the marketplace.

8 NEW SECTION. **Sec. 8.** The director shall report biennially to
9 the legislature on the effectiveness and efficiency of the Washington
10 small business retirement marketplace, including the levels of
11 enrollment and the retirement savings levels of participating
12 enrollees.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.320
14 RCW to read as follows:

15 The department, upon request of the department of commerce, must
16 review individual retirement account products proposed for inclusion
17 in the Washington small business retirement marketplace to confirm
18 that the products comply with the requirements of section 4 of this
19 act.

20 NEW SECTION. **Sec. 10.** If any part of this act is found to be in
21 conflict with federal requirements that are a prescribed condition to
22 the allocation of federal funds to the state, the conflicting part of
23 this act is inoperative solely to the extent of the conflict and with
24 respect to the agencies directly affected, and this finding does not
25 affect the operation of the remainder of this act in its application
26 to the agencies concerned. Rules adopted under this act must meet
27 federal requirements that are a necessary condition to the receipt of
28 federal funds by the state.

29 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act are each
30 added to chapter 43.330 RCW and codified with the subchapter heading
31 of "Washington small business retirement marketplace."

--- END ---