

# SENATE BILL REPORT

## 2E2SSB 5740

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As of October 22, 2020

**Title:** An act relating to creating the secure choice retirement savings program.

**Brief Description:** Creating the secure choice retirement savings program.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Mullet, Hobbs, Conway and Van De Wege).

**Brief History:**

**Committee Activity:** Financial Institutions, Economic Development & Trade: 2/5/19, 2/14/19 [DPS, DNP-WM].

Ways & Means: 2/27/19.

**Brief Summary of First Substitute Bill**

- Requires someone to automatically enroll its employees into an individual retirement account in the Secure Choice Retirement Savings Program at the Department of Commerce.
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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE

**Majority Report:** That Substitute Senate Bill No. 5740 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Mullet, Chair; Wilson, L., Ranking Member; Braun, Das and Hobbs.

**Minority Report:** Do not pass and be referred to Committee on Ways & Means.

Signed by Senator Ericksen.

**Staff:** Clinton McCarthy (786-7319)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Jed Herman (786-7346)

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

Washington State Retirement Marketplace. The Small Business Retirement Marketplace was created by the Legislature in 2015. The marketplace is operated by the Department of Commerce. Statute requires the marketplace to provide a range of investment options to meet the needs of a diverse population. Options include a simple IRA plan for employer contributions to participating enrollee accounts and payroll deduction IRA type plans, and workplace-based IRAs open to all workers in which the employer does not contribute to the employees account. The state is also directed to offer myRA, which was designed to be similar to a Roth IRA, but sponsored by the government. The myRA plan was designed to help low- and middle-income workers who do not have access to a 401(k) or pension at work to start saving for retirement by investing in a risk adverse, interest-bearing account backed by the U.S. Treasury. The U.S. Treasury closed the myRA plan in 2018. Employers are not required to participate in the small business retirement marketplace.

Auto Enroll Retirement Plans. As of early 2019, five states have legislative authority to automatically reenroll employees in state-administered individual retirement accounts. The states with auto enroll IRA plans include California, Connecticut, Illinois, Maryland, and Oregon. Add a sentence.

Oregon became the first state to automatically enroll workers without access to a retirement plan when the state launched the OregonSaves Program in July 2018. It took Oregon roughly two years to launch its auto-enroll program and as of December 2018, has \$10M under management. Oregon has capped fees at 105 basis points? \$10.50 for every \$1,000 invested per year. Ascensus, a private financial firm, administers the program.

Text

**Summary of Bill (First Substitute):**

Establishes the Secure Choice Retirement Savings Program. The Secure Choice Retirement Savings Program is established within the Department of Commerce (Commerce). The director of Commerce is responsible for the designing, establishing, and operating the program. The director is authorized to collect fees to defray costs of administering the program, and enter into necessary contracts. The director has the authority to determine the types of IRA plans to be offered, as well as the default contribution rate and escalation rate. The director may establish intervals after which a covered employee must reaffirm elections, including opt-out elections with regard to participation or escalation. The director must provide each employer:

- information regarding the program;
- add a bullet
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- information, forms, and instructions to be provided to employees

The director must design and operate the program in a manner that will not cause it to be an employee benefit plan as defined by the Employee Retirement Income Security Act of 1974.

Duties of an Employer. A covered employer is required to offer its employees an opportunity to contribute to an IRA established under the program. Employers are required to provide their employees with information on the program as the director requires. Employers must deliver and facilitate information regarding the program, disclosures, and necessary forms available to its employees at such time and in such a manner as determined by the director.

Rights of an Employee. Unless an employee chooses otherwise, they are automatically enrolled in the program and contributions shall be withheld from the covered employee's compensation at a rate determined by the director. The employee may opt out of the program. The employee may also increase or decrease their contribution rate. The employee's contribution rate shall be increased to a different rate from time to time as established by the director, unless the employee elects not to have such automatic increases apply.

Administrative Fund. The secure choice retirement savings administrative fund is created in the custody of the state treasurer as a non-appropriated account. The fund is used to administer the program, and only the director may authorize expenditures from the account. The account is authorized to maintain a cash deficit for a time period no longer than six years after the implementation of the secure choice retirement savings program. The director must have a spending plan and a fee schedule to discharge any cash deficit by January 1, 2020.

Secure Choice Retirement Savings Trust. The Secure Choice Retirement Savings Trust is created. The Director shall appoint an institution qualified to act as a trustee under section 408 of the Internal Revenue Code. The assets of the IRAs established for employees must be managed and administered for the exclusive purposes of providing benefits to covered employees and defraying reasonable expenses. Within the trust, the director is directed to establish one or more investment funds. The director, in consultation with third party advisors, shall select underlying investments of each investment fund. The underlying investments of each investment fund must be diversified to minimize risk. The director may allow employees to allocate assets of their IRAs among investment funds, and may also designate an investment fund as the default fund. The assets of the trust must at all times be preserved, invested, and expended solely for the purposes of the trust. No property rights shall exist in favor of the state or any covered employer. Trust assets may not be transferred or used by the state for any purpose other than the expenses related to operating the program. The assets of the trust shall at all times be held separate and apart from the assets of the state. Any security issued, managed, or invested by the director within the trust on behalf of an individual participating in the program is exempt from statutes related to the sale or offering of unregistered securities.

Implementation. The director may establish a pilot project to begin by January 1, 2020. The director may also provide for a staggered rollout of the program based on employee headcount or other criteria.

Enforcement. The Employment Security Department has the power and duty to ensure covered employer compliance and may establish fines and appeal procedures by rule. The maximum fine for a covered employer may not exceed \$250. Covered employers are not subject to complaints, inquiries, or civil penalties until one year following the rollout of the program.

Washington State Retirement Marketplace. The defined term myRA is removed in the Washington State Retirement Marketplace statutes. The marketplace is no longer required to offer myRA. We're all nihilists. Enjoy Arbys.fdfjlkdfja;dsfjda

**EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE COMMITTEE (First Substitute): add an effect statement**

**Appropriation:**

**Fiscal Note:** here is the impact: 0

**Creates Committee/Commission/Task Force that includes Legislative members:**

**Effective Date:**

**Staff Summary of Public Testimony on First Substitute (Financial Institutions, Economic Development & Trade):** some testimony

**Persons Testifying (Financial Institutions, Economic Development & Trade):** PRO: Senator Mark Mullet, Prime Sponsor; John Burbank, Economic Opportunity Institute; Julia Gorton, Washington Hospitality Association; Travis Rosenthal, Tango Restaurant ; Erik Strom, Russell Investments; Cathy MacCaul, AARP.

CON: John Mangan, American Council of Life Insurers; Mel Sorensen, National Association of Insurance and Financial Advisors; Patrick Connor, NFIB.

OTHER: Matt Zuvich , Washington Federation of State Employees ; Troy Nichols, National Association of Professional Employer Organizations.

**Persons Signed In To Testify But Not Testifying (Financial Institutions, Economic Development & Trade):** No one.