

HOUSE BILL REPORT

SHB 2474

As Passed House:
February 14, 2014

Title: An act relating to creating the save toward a retirement today state retirement savings plan.

Brief Description: Creating the save toward a retirement today retirement savings plan.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Springer, Harris, Sullivan, Haler, Takko, Johnson, Fagan, Tharinger, Walsh, Pettigrew, Goodman, Clibborn, Tarleton, Manweller, Kagi, Moeller, Appleton, Jinkins, Habib, Bergquist, Morrell, Cody, Magendanz, Santos, Pollet and Freeman).

Brief History:

Committee Activity:

Appropriations: 1/28/14, 2/11/14 [DPS].

Floor Activity:

Passed House: 2/14/14, 54-43.

Brief Summary of Substitute Bill

- Creates the Start Retirement Savings Plan (Start Plan) permitting private employers and employees to participate in retirement plans administered by the Washington State Department of Retirement Systems (DRS).
- Empowers the Washington State Investment Board to invest the funds contributed by participating employers and employees to the Start Plan.
- Requires the Director of the DRS to seek Internal Revenue Service approval to operate the Start Plan on a tax-deferred basis.
- Provides for the termination of the plan if it does not reach a sufficient size to be self-supporting based on reasonable administrative fees.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Vice Chair; Carlyle, Cody, Dunshee,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Green, Haigh, Harris, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, Morrell, Pettigrew, Seaquist, Springer, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 13 members: Representatives Hunter, Chair; Chandler, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Christian, Dahlquist, Fagan, Haler, G. Hunt, Parker, Schmick and Taylor.

Staff: David Pringle (786-7310).

Background:

All regular employees of the state are members of one of the plans of the state retirement system plans. The plans include the Public Employees' Retirement System, the Law Enforcement Officers' and Fire Fighters' Retirement System, the Teachers' Retirement System, and others. All plans of the state retirement systems are administered by the Department of Retirement Systems (DRS), which also administers the Washington State Investment Board (WSIB) and manages the investment of the funds of the state retirement systems, as well as other nonretirement funds.

Private employers take a wide variety of approaches to pension plans. Some provide their employees with pension benefits that share characteristics with the state retirement plans administered by the DRS, and some provide no pension plan to their employees. Private employers may also provide employees the opportunity to participate in a wide variety of other retirement plans, such as 401(k) plans, which are plans named after the section of the federal Internal Revenue Code that they implement.

Private employers offering pension plans to their employees must comply with an extensive body of federal law and regulation, the Employee Retirement Income Security Act, commonly referred to as ERISA. Governmental plans operated by a government for its own employees are generally exempt from ERISA rules. For a private employer, however, in order to qualify for the significant tax benefits available for both employers and employees, the employer must maintain adequate recordkeeping, fairness, and funding in their pension plans as specified by ERISA. The income tax related portions of ERISA are regulated by the federal Internal Revenue Service (IRS), and other portions by the United State's Department of Labor.

Privately employed individuals participate in Social Security, and also have federally regulated personal retirement investment opportunities such as the Individual Retirement Account (IRA), accounts funded with pre-tax dollars, and many others. Banks, investment firms, and financial planners advise and assist individuals in planning and investing for retirement.

Summary of Substitute Bill:

The Start Retirement Savings Plan (Start Plan) is created, permitting private sector employers engaged in any enterprise in the state to participate in IRS-approved employer plans open to all employers who choose to contribute to their employees' accounts, and IRS-approved

workplace-based individual retirement accounts open to all employees of participating employers. Employer participation in the Start Plan is voluntary for employers.

The Start Plan may have State General Fund funds allocated to the DRS to administer the plan until it reaches self-sustainability, but at no time will the DRS expense account be used to support the Start Plan, nor will Start Plan funds be commingled with public sector employee retirement funds.

The Director of the DRS shall develop and seek IRS approval to operate the plans and accounts to Washington employers and employees on a tax-deferred basis. The DRS shall design the plan to limit the liability of the state and participating employers as plan fiduciaries.

The DRS will make projections of Start Plan self-sustainability, and if at any time after the fourth year of accepting employer participation the DRS determines that the Start Plan does not project to a self-sustaining level based on reasonable administrative fees, the Start Plan may be terminated. If at the end of the tenth year after the start of enrollment, the Start Plan has not reached the size necessary to be self-supporting, the Start Plan terminates. In the event of termination, members will be enabled to transfer accumulated funds into other tax-qualified retirement accounts.

Start Plan principal and administrative accounts are created, and the Washington State Investment Board is empowered to invest funds in either account, and may not be held liable for any loss or deficiency resulting from reasonable efforts to implement the Start Plan. The Director of the DRS is required to administer the Start Plan directly or by contract, and to report biennially to the relevant committees of the Legislature on the Start Plan.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 13, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, with with specified expiration and effective dates for sections 12 and 13, relating to the retention of earnings on investments of surplus balances in State Treasury funds. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This is a bold undertaking. Over 38 million people in the United States retire without retirement savings. About 460,000 people in Washington between the ages of 45 and 65 have saved less than \$25,000 for retirement. As complicated as making this bill work might be, the current situation cannot continue. This is a way to jump-start a program that can eventually be self-sustaining. But the cost of the bill pales in comparison to the 460,000 that will be dependent on the state later in life. There is a compelling public policy rationale for this. There are a million people in Washington that don't have access to retirement plans at work. Only 5 percent of people that don't have workplace retirement plans save. This is voluntary, both for employers and employees, and the state would not be on the hook. Internal Revenue Service (IRS) approval would be required to start the plan, but this is a

normal requirement. Our statewide poll of small business owners indicated that 78 percent of them do not offer retirement plans. The main reason is cost, but second is the administrative burden. Eighty-five percent of those small business owners see that the lack of retirement savings among their workforce is a problem. In working with older low-income adults or disabled adults, concerns arise that they don't have access to easy-to-use employer-based savings programs. There is a provision in the bill that will allow for commissions for financial services companies to sell this plan. The public subsidy for operating this is small, but could have a big impact on social services costs in the future. Low-wage workers tend to change jobs frequently and work for employers that don't offer retirement plans.

(Opposed) There is already an industry that is up to the challenge that this bill is trying to answer, so there is no need for the bill. The Association of Washington Business' "MyFuture" 401(k) product has 78 new participating employers, all whom have 10 or fewer employees. Should government compete with products already available from the private sector? Starting a 401(k) plan from scratch, as the bill proposes, is hard, and shutting them down is even harder. There is no lack of access to these kinds of retirement savings plans. Low-cost Simplified Employee Pension (SEP) and Simple Individual Retirement Account (IRA) plans are widely available at low cost and the IRS provides a lot of free guidance. We don't need one more choice, there are already many. There is a real problem in retirement savings, but this is not the answer. The state needs to address this through public education and awareness. Why spend taxpayer funds on this when there are already low-cost and no-cost programs available? While the attention being paid to this issue is appreciated, this is not an access issue. The real issue is job insecurity and the pressure to make ends meet. The low-income workers targeted by this bill don't have extra money to set aside. This proposal is not sustainable. There are good intentions here, but not a good approach to the problem. Hundreds of hard-working financial advisors and insurance professionals already provide excellent, low-cost products and services for employers and employees—many who are not high worth. The 2009 Department of Retirement Services report already laid out many IRS and ERISA problems with this proposal, including state fiduciary liability problems. Many business owners just don't want to provide these benefits to their employees, and this bill won't change that. After working for decades setting up insurance and savings programs for people, it is clear that the problem is that people cannot set aside money, not that they don't want a decent retirement. Behavior needs to change and that should be the priority. The commissions on IRAs are typically very small. The products are more for the earning of a client that may need other services in the future. Daylight needs to be shined on this proposal. Perhaps through the Department of Financial Institutions or another agency a public education campaign could be started. Small businesses don't do this because it is a hard task, with many challenges that must be met. This is not a cost-effective approach. Employees don't want these kinds of retirement savings products, and don't enroll when they are available. The national challenge of adequate retirement savings is huge. Access to the market is not the problem, however. Look at your banks, credit unions, or other financial institutions' websites and see the wide variety of low-cost products that are available. This bill is going to be very difficult to get approved by the IRS and the U.S. Department of Labor.

Persons Testifying: (In support) Representative Springer, prime sponsor; Ingrid McDonald and Jim Hedrick, AARP of Washington; Terry Gardiner, Small Business Majority; John

Norden, Senior Services of Seattle King County; Roy Walker, Olympic Area Agency on Aging; and Steve Breaux, Service Employees International Union 775.

(Opposed) Amber Carter, Association of Washington Business; Jerry Gintz, Gintz Accounting; Gene Bell, Bell & Associates; John Manga, American Council of Life Insurers; Mel Sorensen, National Association of Insurance and Financial Advisers; Sharon Sparling, Sharon Sparling Agency; Richard Ek, Ek and Ek Agency; Denny Eliason, Washington Bankers Association; Michelle Stender, Farmers Insurance; Gary Smith, Independent Business Association; and Bill Stauffacher, Securities Industry and Financial Markets Association.

Persons Signed In To Testify But Not Testifying: None.