**5740-S2.E2 AMH CPB H5086.1 - NOT FOR FLOOR USE**

**2E2SSB 5740** - H COMM AMD

By Committee on Consumer Protection & Business

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature finds: That large numbers of households in this state have no or inadequate retirement savings and many of those households do not have access to any savings plan at work; that this lack of retirement savings and coverage is more prevalent among low-income households; and that it is well-established that most workers will save for retirement if they are offered a workplace savings program. Washington state is deeply concerned about the retirement prospects of its citizens and the strain that large numbers of ill-prepared retirees may impose on taxpayer-financed elderly assistance programs for housing, food, medical care, and other necessities. The purpose of this act is to facilitate voluntary employer adoption of retirement plans and worker savings in this state by removing barriers to entry into the state's existing retirement savings program, making available to Washington employers a wide array of retirement plan options, including plans with auto-enrollment features, and ensuring flexible fee structures that will be transparent to marketplace participants.

**Sec.**  RCW 43.330.732 and 2015 c 296 s 2 are each amended to read as follows:

The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "Approved plans" means retirement plans offered by private sector financial services firms that meet the requirements of this chapter to participate in the ((~~marketplace~~)) program.

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

(3) "Eligible employer" means a self-employed individual, sole proprietor, or an employer with fewer than one hundred qualified employees at the time of enrollment.

(4) "Enrollee" means any employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the ((~~Washington small business retirement marketplace~~)) secure choice retirement savings program.

(5) ((~~"myRA" means the myRA retirement program administered by the United States department of the treasury that is available to all employers and employees with no fees or no minimum contribution requirements. A myRA is a Roth IRA option and investments in these accounts are backed by the United States department of the treasury.~~

~~(6)~~)) "Participating employer" means any eligible employer with employees enrolled in an approved plan offered through the ((~~Washington small business retirement marketplace~~)) secure choice retirement savings program who chooses to participate in the ((~~marketplace~~)) program and offers approved plans to employees for voluntary enrollment.

((~~(7)~~)) (6) "Private sector financial services firms" or "financial services firms" mean persons or entities licensed or holding a certificate of authority and in good standing by either the department of financial institutions or the office of the insurance commissioner and meeting all federal laws and regulations to offer retirement plans.

((~~(8)~~)) (7) "Qualified employee" means those workers who are defined by the federal internal revenue service to be eligible to participate in a specific qualified plan.

((~~(9)~~)) (8) "Target date or other similar fund" means a hybrid mutual fund that automatically resets the asset mix of stocks, bonds, and cash equivalents in its portfolio according to a selected time frame that is appropriate for a particular investor. A target date is structured to address a projected retirement date.

((~~(10) "Washington small business retirement marketplace" or "marketplace"~~)) (9) "Secure choice retirement savings program" or "program" means the retirement savings program created to connect eligible employers and their employees with approved plans to increase retirement savings.

**Sec.**  RCW 43.330.735 and 2017 c 69 s 1 are each amended to read as follows:

(1) The ((~~Washington small business retirement marketplace~~)) secure choice retirement savings program is created.

(2) Prior to connecting any eligible employer with an approved plan in the ((~~marketplace~~)) program, the director shall design a plan for the operation of the ((~~marketplace~~)) program.

(3) The director shall consult with the Washington state department of retirement systems, the Washington state investment board, and the department of financial institutions in designing and managing the ((~~marketplace~~)) program.

(4) The director shall approve for participation in the ((~~marketplace~~)) program all private sector financial services firms that meet the requirements of RCW 43.330.732((~~(7)~~)) (6).

(5) ((~~A range of investment options must be provided to meet the needs of investors with various levels of risk tolerance and various ages.~~)) The director must approve a diverse array of private retirement plan options that are available to employers on a voluntary basis, including plans that are completely voluntary for employees and plans that have auto-enrollment and auto-escalation features designed to increase employee participation and savings. Available retirement plans may include but are not limited to ((~~life~~)): (a) Life insurance plans that are designed for retirement purposes((~~, and plans for eligible employer participation such as: (a) A SIMPLE IRA-type plan that provides~~)); (b) simplified employer pension plans; (c) SIMPLE IRA plans that provide for employer contributions to participating enrollee accounts; ((~~and (b) a~~)) (d) payroll deduction ((~~individual retirement account type plan or workplace-based~~)) plans with individual retirement accounts open to all workers in which the employer does not contribute to the employees' accounts; (e) plans described under 401(a), 401(k), or 403(b) of the internal revenue code; and (f) pooled employer plans or multiple employer plans allowed under federal law.

(6)(a) Prior to approving a plan to be offered ((~~on~~)) in the ((~~marketplace~~)) program, the department must receive verification from the department of financial institutions or the office of the insurance commissioner:

(i) That the private sector financial services firm offering the plan meets the requirements of RCW 43.330.732((~~(7)~~)) (6); and

(ii) That the plan meets the requirements of this section excluding subsection (9) of this section which is subject to federal laws and regulations.

(b) If the plan includes either life insurance or annuity products, or both, the office of the insurance commissioner may request that the department of financial institutions conduct the plan review as provided in (a)(ii) of this subsection prior to submitting its verification to the department.

(c) The director may remove approved plans that no longer meet the requirements of this chapter.

(7) The financial services firms participating in the ((~~marketplace must offer a minimum of two product options~~)) program may offer retirement plans that include: (a) A target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement ((~~and~~)); (b) a balanced fund; and (c) other fund options chosen by the participating employer or enrollee. ((~~The marketplace must offer myRA.~~))

(8) In order for the ((~~marketplace~~)) program to operate, there must be at least two approved plans ((~~on~~)) in the ((~~marketplace~~)) program; however, nothing in this subsection shall be construed to limit the number of private sector financial services firms with approved plans from participating in the ((~~marketplace~~)) program.

(9) Approved plans must meet federal law or regulation for internal revenue service approved retirement plans.

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

(11) Financial services firms selected by the department to offer approved plans ((~~on~~)) in the ((~~marketplace~~)) program may ((~~not charge the participating employer an administrative fee and may not charge enrollees more than one hundred basis points in total annual fees and must provide information about their product's historical investment performance. Financial services firms may~~)) determine and charge the participating employer reasonable, market-based fees commensurate with the type of retirement plan and benefits offered, provided that the fee structure must be disclosed and made transparent to participating employers and employees in order to facilitate comparison of like plans offered in the marketplace. Financial services firms may also charge enrollees a de minimis fee for new and/or low balance accounts in amounts negotiated and agreed upon by the department and financial services firms. ((~~The director shall limit plans to those with total fees the director considers reasonable based on all the facts and circumstances.~~))

(12) Participation in the ((~~Washington small business retirement marketplace~~)) program is voluntary for both eligible employers and qualified employees.

(13) Enrollment in any approved plan offered in the ((~~marketplace~~)) program is not an entitlement.

**Sec.**  RCW 43.330.737 and 2015 c 296 s 4 are each amended to read as follows:

(1) The director shall contract with a private sector entity to:

(a) Establish a protocol for reviewing and approving the qualifications of all private sector financial services firms that meet the qualifications to participate in the ((~~marketplace~~)) program;

(b) Design and operate an internet web site that includes information about how eligible employers can voluntarily participate in the ((~~marketplace~~)) program;

(c) Develop marketing materials about the ((~~marketplace~~)) program that can be distributed electronically, posted on agency web sites that interact with eligible employers, or inserted into mail from the department of revenue, department of labor and industries, employment security department, the office of minority and women's business enterprises, department of licensing, and secretary of state's division of corporations;

(d) 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

(e) Promote the benefits of retirement savings and other information that promotes financial literacy.

(2) The director shall address how rollovers are handled for eligible Washington employers that have workers in other states, and whether out-of-state employees with existing IRA's can roll them into the plans offered through the ((~~Washington small business retirement marketplace~~)) program.

(3) The director shall direct the entity retained pursuant to subsection (1) of this section to assure that licensed professionals who assist their eligible business clients or employees to enroll in a plan offered through the ((~~Washington small business retirement marketplace~~)) program may receive routine, market-based commissions or other compensation for their services.

(4) The director shall ensure by rule that there is objective criteria in the protocol provided in subsection (1)(a) of this section and that the protocol does not provide unfair advantage to the private sector entity which establishes the protocol.

(5) The director shall encourage the participation of private sector financial services firms in the ((~~marketplace~~)) program.

**Sec.**  RCW 43.330.740 and 2015 c 296 s 5 are each amended to read as follows:

In addition to any appropriated funds, the director may use private funding sources, including private foundation grants, to pay for ((~~marketplace~~)) program expenses. On behalf of the ((~~marketplace~~)) program, the department shall seek federal and private grants and is authorized to accept any funds awarded to the department for use in the ((~~marketplace~~)) program.

**Sec.**  RCW 43.330.742 and 2015 c 296 s 6 are each amended to read as follows:

The department shall not expose the state of Washington as an employer or through administration of the ((~~marketplace~~)) program to any potential liability under the federal employee retirement income ((~~[security]~~)) security act of 1974. As such, the department is specifically prohibited from offering and operating a state-based retirement plan for businesses or individuals who are not employed by the state of Washington.

**Sec.**  RCW 43.330.745 and 2015 c 296 s 7 are each amended to read as follows:

Using funds specifically appropriated for this purpose, 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~~)) program.

**Sec.**  RCW 43.330.747 and 2015 c 296 s 8 are each amended to read as follows:

The director shall report biennially to the legislature on the effectiveness and efficiency of the ((~~Washington small business retirement marketplace~~)) secure choice retirement savings program, including the levels of enrollment and the retirement savings levels of participating enrollees that are obtained in aggregate on a voluntary basis from private sector financial services firms that participate in the ((~~marketplace~~)) program.

**Sec.**  RCW 43.330.750 and 2017 c 69 s 2 are each amended to read as follows:

The director shall adopt rules necessary to allow the ((~~marketplace~~)) program to operate as authorized by this subchapter. As part of the rule development process, the director shall consult with organizations representing eligible employers, qualified employees, private and nonprofit sector retirement plan administrators and providers, organizations representing private sector financial services firms, and any other individuals or entities that the director determines relevant to the development of an effective and efficient method for operating the ((~~marketplace~~)) program. ((~~The director or the director's designee may take the actions necessary to ensure chapter 69, Laws of 2017 is implemented on July 23, 2017.~~))

**Sec.**  RCW 43.320.180 and 2015 c 296 s 10 are each amended to read as follows:

The department of financial institutions, annually, or upon request of the department of commerce, must review individual retirement account products proposed for inclusion in the ((~~Washington small business retirement marketplace~~)) secure choice retirement savings program to confirm that the products comply with the requirements of RCW 43.330.735, except for those requirements that pertain to federal laws and regulations.

NEW SECTION. **Sec.**  RCW 43.330.730 (Finding—2015 c 296) is decodified."

Correct the title.

EFFECT: (1) Changes the name of the Washington Small Business Retirement Marketplace to the Secure Choice Retirement Savings Program (Program).

(2) Requires the Director of the Department of Commerce to include plans in the Program that are completely voluntary and plans that have auto-enrollment and auto-escalation features.

(3) Specifies that plans offered in the Program may include: Simplified employer pension plans; SIMPLE IRA plans; plans described under 401(a), 401(k), or 403(b) of the Internal Revenue Code; and pooled employer plans or multiple employer plans allowed under federal law.

(4) Eliminates the requirement that participating financial services firms offer a minimum of two plans.

(5) Allows participating financial services firms to determine and charge the participating employer reasonable, market-based fees commensurate with the type of retirement plan and benefits offered, provided that the fee structure must be disclosed and made transparent to participating employers and employees in order to facilitate comparison of like plans offered in the marketplace.