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**Consumer Protection & Business  
Committee**

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**E2SSB 5740**

**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 Summary of Engrossed Second Substitute Bill**

- Creates the Secure Choice Retirement Savings Program (Program) at the Department of Commerce.
- Requires certain employers to automatically enroll their employees into an individual retirement account in the Program.

**Hearing Date:** 3/19/19

**Staff:** Serena Dolly (786-7150).

**Background:**

Washington Small Business Retirement Marketplace.

The Washington Small Business Retirement Marketplace (Marketplace) allows self-employed individuals and employers with fewer than 100 employees to participate in retirement plans. Private financial service firms may be approved by the Department of Commerce (Department) to offer approved plans on the Marketplace. The Marketplace must provide a range of investment options to meet the needs of investors with various levels of risk tolerance. Options include a simple individual retirement account (IRA) plan for employer contributions to participating enrollee accounts, payroll deduction IRA-type plans, and workplace-based IRAs open to all workers in which the employer does not contribute to employees' accounts. Employers are not required to participate in the Marketplace.

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

The Marketplace must offer the myRA plan, which is a federal government sponsored plan similar to a Roth IRA. 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 United States Treasury. The myRA plan was closed in 2018.

### **Summary of Bill:**

#### Secure Choice Retirement Savings Program.

The Secure Choice Retirement Savings Program (Program) is established within the Department. The Director of the Department is responsible for designing, establishing, and operating the Program. The Director is authorized to enter into necessary contracts and to collect fees to defray administration costs. The Director has the authority to determine the types of IRA plans to be offered, a default contribution rate, and an 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 establish an outreach plan and provide each employer:

- information about the Program;
- required disclosures to be provided to employees; and
- 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.

#### Covered Employers.

A "covered employer" is defined as an employer that elects to be covered or that:

- has been in business for at least five years;
- does not currently sponsor, maintain, or contribute to an employee retirement plan; and
- has not sponsored, maintained, or contributed to an employee retirement plan at any time during the preceding two calendar years.

A covered employer is required to offer its employees an opportunity to contribute, through payroll deduction, to an IRA established under the Program. Employers must deliver to its employees information provided by the Department, including materials about the Program, disclosures, and necessary forms, at such time and in such a manner as determined by the Director. Employers may not endorse, promote, or contribute to the Program.

#### Covered Employees.

A "covered employee" is an individual who:

- is at least 18 years old;
- is employed by a covered employer; and
- has compensation allocable to the state.

Unless an employee chooses otherwise, the employee is enrolled in the Program and contributions must 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 must be increased periodically

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 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 must appoint an institution to act as a trustee. 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 must establish one or more investment funds. The Director, in consultation with third party advisors, will 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 must 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.

Washington Small Business Retirement Marketplace.

An employer with at least one employee may participate in the Marketplace.

The Marketplace is no longer required to offer myRA, and the definition of myRA is removed from the Marketplace statutes.

**Appropriation:** None.

**Fiscal Note:** Requested on March 11, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.