

HOUSE BILL REPORT

HB 2437

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to incentivizing retirement savings options for Washington businesses and their employees.

Brief Description: Incentivizing retirement savings options for Washington businesses and their employees.

Sponsors: Representatives Santos, Wylie and Reeves.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/23/24, 1/30/24 [DPS].

Brief Summary of Substitute Bill

- Establishes the Washington Retirement Futures Task Force (Task Force) to address the administrative structure and implementation needs for creating a state administered retirement program.
- Requires the Department of Financial Institutions to staff the Task Force.
- Requires the Task Force to report its findings and recommendations to the Governor and the Legislature by December 1, 2024.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Walen, Chair; Reeves, Vice Chair; Robertson, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Chapman, Connors, Donaghy, Hackney, Ryu, Sandlin, Santos and Volz.

Staff: Megan Mulvihill (786-7304).

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:

Employee Retirement Income Security Act of 1974.

The federal Employee Retirement Income Security Act of 1974 (ERISA) sets minimum standards for most voluntarily established retirement and health plans in private industry to provide protection for individuals in these plans. 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 retirement plans as specified by the ERISA. The income tax related portions of the ERISA are regulated by the federal Internal Revenue Service, and other portions by the United States Department of Labor.

Washington State Small Business Retirement Marketplace.

The Small Business Retirement Marketplace (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 Individual Retirement Account (IRA) plan for employer contributions to participating enrollee accounts, and payroll deduction IRAs or workplace-based IRAs open to all workers in which the employer does not contribute to the employee's account. Employers are not required to participate in the Marketplace.

Summary of Substitute Bill:

The Washington Retirement Futures Task Force (Task Force) is established to address the administrative structure and implementation needs for creating a state administered retirement program for private sector employers and employees. The Task Force members are:

- two members from each of the largest caucuses from both the Senate and the House of Representatives;
- the Director of the Department of Financial Institutions or the Director's designee; and
- the following members appointed by the Governor:
 - one member from the securities industry;
 - one member representing the interests of small, independent businesses in Washington;
 - one member representing minority and women-owned businesses;
 - one member representing the Washington Asset Building Coalition;
 - one member representing the insurance industry; and
 - one member representing a retirement advocacy organization.

The Task Force must:

- conduct an in-depth analysis of the Marketplace to understand why it has not

- achieved success in terms of higher participation rates, especially compared to other states, and recommend potential solutions or modifications for increasing engagement from private sector financial service corporations and employers;
- examine whether a public retirement exchange model in which private financial advisors offer private retirement products would be a suitable alternative to the Marketplace;
 - identify the feasibility of a state administered retirement program for private sector employers and employees, including an automatic enrollment individual retirement account program or a multiple employer retirement program, or both;
 - explore options for how a state administered retirement program could work in conjunction with the Marketplace;
 - identify the necessary governing, administrative, and program structures for a state administered retirement program, including program requirements to comply with the Internal Revenue Code, ERISA, and other applicable laws; eligibility criteria; available retirement account options; default investment contributions and escalation rates; and investment strategies;
 - examine the need for state agency involvement in educating employers and employees and ensuring compliance, managing complaints and investigations, issuing penalties, and addressing appeals;
 - set forth recommendations for confidentiality and enforcement;
 - examine limitations on liability for employers, the state, an administrative body, and its members involved with potential governance and administration; and
 - identify a potential timeline for implementation of a state administered retirement program.

The Task Force must choose its chair from among its legislative members, with the legislative member from the majority caucus of the House of Representatives convening the initial meeting. The Task Force is staffed by the Department of Financial Institutions and must report its findings and recommendations to the Governor and Legislature by December 1, 2024.

The Task Force expires August 1, 2025.

Substitute Bill Compared to Original Bill:

The substitute bill strikes everything in the underlying bill, including the establishment of the Washington Multiple Employer Retirement Plan, and instead creates the Washington Retirement Futures Task Force.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 30, 2024.

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

Staff Summary of Public Testimony:

(In support) The state has a strong public policy interest in a solution to the retirement problem. One of the key reasons for the problem is a decline and disappearance of defined benefit programs in the private sector. What is the state's role, and if there is a role, what are the features that the state should seek to include? The preference with this solution is to offer employers and employees flexibility, a diverse portfolio, and minimal fees.

(Opposed) There are a variety of robust retirement options available in the private market. The state should help employers and small businesses take advantage of these options first. There should also be increased efforts around financial literacy. If this legislation moves forward, please engage financial advisors in the process so small businesses can be made aware of other options available to them.

(Other) There is a commitment to expanding retirement security. A robust 401(k) program, including the employer match options, higher contribution limits, and full ERISA protections, is supported. There may even be significant tax credits available for employers who join this program along with other federal benefits. The board structure in this proposal is more representative of the individuals impacted by the legislation. Two terms of service may result in brain drain because it can be time consuming to set up a program, so longer terms should be considered. The opt-in and voluntary features are greatly appreciated. This could apply for part-time and seasonal employees. There is still a recommendation to offer a more streamlined approach, with an incentive to join an open multiple employer plan or add a private sector option to the Marketplace.

Persons Testifying: (In support) Representative Sharon Tomiko Santos, prime sponsor.

(Opposed) Chris Bandoli, National Association of Insurance and Financial Advisors Washington.

(Other) John Mangan, American Council of Life Insurers; and Patrick Connor, National Federation of Independent Business.

Persons Signed In To Testify But Not Testifying: None.