

SENATE BILL REPORT

SHB 2109

As of March 23, 2015

Title: An act relating to creating the Washington small business retirement marketplace.

Brief Description: Creating the Washington small business retirement marketplace.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Springer, Manweller, Pettigrew, Harris, Kilduff, S. Hunt, Bergquist, Lytton, Tharinger and Santos).

Brief History: Passed House: 3/06/15, 64-34.

Committee Activity: Financial Institutions & Insurance: 3/19/15.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Staff: Susan Jones (786-7404)

Background: Some private sector employers provide their employees with retirement benefits, such as 401(k) plans, while other employers may provide no retirement benefits to their employees. Some small business employers may not offer the retirement plans due to concerns about costs, administrative burdens, and potential liability.

Private sector employers offering retirement plans to their employees must comply with the Employee Retirement Income Security Act (ERISA). In order to qualify for tax benefits available for both employers and employees, employers must maintain adequate record keeping, fairness, and funding in their retirement plans as specified by ERISA.

Private sector employees participate in Social Security, and also have federally regulated personal retirement investment options such as the Individual Retirement Account (IRA), the Payroll Deduction IRA; myRA, a Roth-IRA; and the SIMPLE IRA plans, a retirement plan for small employers allowing employer contributions.

Banks, investment firms, financial planners, and others advise and assist individuals in planning and investing for retirement.

Summary of Bill: Creation. The Washington small business retirement marketplace (marketplace) is created. The director (director) of Department of Commerce (Commerce)

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.

must contract with a private sector entity to establish a program that connects eligible employers with qualifying plans. The program must:

- establish a protocol for reviewing and approving the qualifications of private sector financial services firms seeking to participate in the marketplace;
- design and operate an Internet website that includes information about how eligible employers can participate in the marketplace;
- develop marketing materials about the marketplace that can be distributed electronically, posted on various agency websites, or inserted in agency mailers;
- 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
- promote the benefits of retirement savings and financial literacy.

Only self-employed individuals, sole proprietors, and employers with fewer than 100 qualified employees are eligible to participate in the marketplace. Participation in the marketplace is completely voluntary.

Three Types of Plans. The marketplace must approve at least three types of plans for eligible employer participation: (1) a SIMPLE IRA-type target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement; (2) a SIMPLE IRA-type balanced fund; and (3) myRA.

Product Options. The marketplace may offer a minimum of two product options for the target date or other similar fund and a minimum of two product options for the balanced fund. The options must include (1) a SIMPLE IRA-type program or other Internal Revenue Service-approved employer plan that provides for employer contributions to participating enrollee accounts; and (2) a payroll deduction individual retirement account type program or workplace-based individual retirement account open to all workers in which the employer does not contribute to the employees' accounts. The director selects the product options offered on the marketplace and may add or remove product options to best meet the needs of enrollees. The products must meet federal law or regulation for the plans.

Fees. Qualifying plans may not charge enrollees more than 100 basis points in total annual fees, and must provide information about their plan's historical investment performance.

Rules. The director must adopt rules necessary to allow the marketplace to operate as authorized.

Reporting. The director reports biennially to the Legislature on the effectiveness and efficiency of the marketplace, including the levels of enrollment and the retirement savings levels of participating enrollees.

Funding and Incentive Payments. In addition to appropriated funds and program fees, Commerce may use private funding sources, including private foundation grants, to pay for marketplace expenses. On behalf of the marketplace, Commerce must seek federal and private grants and is authorized to accept any funds awarded to Commerce for use in the marketplace. Using appropriated funds and funds provided by private foundations or private

sector entities, the director may provide incentive payments to participating employers that enroll in the marketplace.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed. The bill is null and void unless funded in the budget by June 30, 2015.

Staff Summary of Public Testimony: PRO: This is a bill that has been around for a couple of years. It was born out of recognition of the statistics that the amount people have saved for their retirement by the time they reach retirement age is astoundingly poor. The number of Washingtonians who have less than \$25,000 saved up by nearing retirement age is off the charts. If we don't find a mechanism to ameliorate that problem, they will be at the state's doorstep eventually. Once you get someone started saving, it is contagious and goes from person to person. Once a person starts a savings regime, they get used to it and get proud of it and continue it. But there needs to be a mechanism that is easy to get started. The concerns heard last year are taken care of. Current programs are not successful since there are many people not saving. A payroll deduction plan is the easiest, simplest, least expensive way for an employer and employee to start saving a little bit. The state becomes the portal and the private sector manages the money. The bill finds a way to help small businesses connect with the private sector in an easier, simpler format and encourages them to try to help their employees save. When small businesses are engaged in the lives of their employees to implement their retirement savings, we are going to have more success. There are so many choices and so many options, to the point of confusion in the marketplace. This approach allows an inexpensive way for employees to have limited options so you don't have option confusion and then they don't want to participate. This encourages people to look at their financial future. This will help eliminate the fear around investing. This helps the government be a partner, and will not push away the free market, but will encourage the free market. These will be products for the first-time investor and encourage them to invest for the long term.

OTHER: Every day, life insurance agents engage in direct encounter with hundreds of Washington residents regarding retirement. The bill should have specific reference to a diversity of options in the plans, including life insurance products directed toward retirement, like annuity programs. There should be room for the products available in this portal for the life insurance products. They are well-tailored with tax incentives. These must be voluntary for the employers and employees. This legislation is far better than last year's legislation. It is fine that the products are available to all businesses with 100 or fewer employees, but the bulk of small business have 20 or fewer employees. The product that comes out of this should be tailored to those smaller businesses. A broad diversity of products is available. There is a concern about the entity setting up the program, that they not have a conflict.

Persons Testifying: PRO: Representative Springer, prime sponsor; Bill Stauffacher, Securities Industry and Financial Markets Assn.; Erik Strom, Russell Investments.

OTHER: Mel Sorensen, American Council of Life Insurers; National Assn. of Insurance and Financial Advisors; Gary Smith, Independent Business Assn.

Persons Signed in to Testify But Not Testifying: PRO: Cathy MacCaul, American Assn. of Retired Persons.