

FINAL BILL REPORT

ESSB 5826

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Synopsis as Enacted

Brief Description: Creating the Washington small business retirement marketplace.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Mullet and Benton).

Senate Committee on Financial Institutions & Insurance

Senate Committee on Ways & Means

House Committee on Appropriations

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, and financial planners advise and assist individuals in planning and investing for retirement.

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

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- 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.

Private sector financial services firms that may participate in the marketplace must be licensed or hold a certificate of authority and be in good standing with either the Department of Financial Institutions or the Office of the Insurance Commissioner and meet all federal laws and regulations to offer retirement plans. The director must ensure by rule that there is objective criteria in the protocol and that the protocol does not provide unfair advantage to the private sector entity establishing the protocol.

Types of Plans. The director must approve a diverse array of private retirement plan options, including life insurance plans that are designed for retirement purposes, and at least two types of plans for eligible employer participation: (1) a SIMPLE IRA-type plan that provides for employer contributions to participating enrollee accounts; and (2) a payroll deduction individual retirement account type plan. The approved plans must meet federal law or regulation for the plans.

Product Options. The financial services firms participating in the marketplace must offer a minimum of two product options: (1) a target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement; and (2) a balanced fund. The marketplace must offer myRA.

Rollovers. The approved plans must include the option for enrollees to roll pretax contributions into a different IRA or another plan after ceasing participation in a marketplace plan. The director must address how rollovers are handled for eligible Washington employers that have workers in other states, and whether out-of-state employees with existing IRAs may roll them into the marketplace plans.

Fees. Financial service firms may not charge participating employers an administrative fee, or enrollees more than 100 basis points in total annual fees, and must provide information about their plans' historical investment performance.

Rules. The director must adopt rules necessary to allow the marketplace to operate as authorized. The rules must be proposed by January 1 of the year of implementation and rules must not be adopted until after the end of the regular legislative session.

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 any appropriated funds, the director 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. The director may provide incentive payments to participating employers that enroll in the marketplace and shall direct the entity retained to assist in creating the marketplace to assure that licensed professionals who assist in enrolling employers and employees in the marketplace may receive commissions.

Votes on Final Passage:

Senate	29	20
House	57	40 (House amended)
Senate	27	22 (Senate concurred)

Effective: July 24, 2015