

2E2SSB 5740 - H COMM AMD

By Committee on Consumer Protection & Business

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds: That large numbers
4 of households in this state have no or inadequate retirement savings
5 and many of those households do not have access to any savings plan
6 at work; that this lack of retirement savings and coverage is more
7 prevalent among low-income households; and that it is well-
8 established that most workers will save for retirement if they are
9 offered a workplace savings program. Washington state is deeply
10 concerned about the retirement prospects of its citizens and the
11 strain that large numbers of ill-prepared retirees may impose on
12 taxpayer-financed elderly assistance programs for housing, food,
13 medical care, and other necessities. The purpose of this act is to
14 facilitate voluntary employer adoption of retirement plans and worker
15 savings in this state by removing barriers to entry into the state's
16 existing retirement savings program, making available to Washington
17 employers a wide array of retirement plan options, including plans
18 with auto-enrollment features, and ensuring flexible fee structures
19 that will be transparent to marketplace participants.

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

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

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

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

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

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

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

13 ~~(6))~~ (6) "Participating employer" means any eligible employer with
14 employees enrolled in an approved plan offered through the
15 (~~Washington small business retirement marketplace~~) secure choice
16 retirement savings program who chooses to participate in the
17 (~~marketplace~~) program and offers approved plans to employees for
18 voluntary enrollment.

19 (~~(7))~~ (7) "Private sector financial services firms" or
20 "financial services firms" mean persons or entities licensed or
21 holding a certificate of authority and in good standing by either the
22 department of financial institutions or the office of the insurance
23 commissioner and meeting all federal laws and regulations to offer
24 retirement plans.

25 (~~(8))~~ (8) "Qualified employee" means those workers who are
26 defined by the federal internal revenue service to be eligible to
27 participate in a specific qualified plan.

28 (~~(9))~~ (9) "Target date or other similar fund" means a hybrid
29 mutual fund that automatically resets the asset mix of stocks, bonds,
30 and cash equivalents in its portfolio according to a selected time
31 frame that is appropriate for a particular investor. A target date is
32 structured to address a projected retirement date.

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

38 **Sec. 3.** RCW 43.330.735 and 2017 c 69 s 1 are each amended to
39 read as follows:

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

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

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

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

13 (5) ~~((A range of investment options must be provided to meet the
14 needs of investors with various levels of risk tolerance and various
15 ages.))~~ The director must approve a diverse array of private
16 retirement plan options that are available to employers on a
17 voluntary basis, including plans that are completely voluntary for
18 employees and plans that have auto-enrollment and auto-escalation
19 features designed to increase employee participation and savings.
20 Available retirement plans may include but are not limited to
21 ((life)): (a) Life insurance plans that are designed for retirement
22 purposes~~((, and plans for eligible employer participation such as:~~
23 ~~(a) A SIMPLE IRA-type plan that provides))~~; (b) simplified employer
24 pension plans; (c) SIMPLE IRA plans that provide for employer
25 contributions to participating enrollee accounts; ((and (b) a)) (d)
26 payroll deduction ((individual retirement account type plan or
27 ~~workplace-based))~~ plans with individual retirement accounts open to
28 all workers in which the employer does not contribute to the
29 employees' accounts; (e) plans described under 401(a), 401(k), or
30 403(b) of the internal revenue code; and (f) pooled employer plans or
31 multiple employer plans allowed under federal law.

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

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

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

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

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

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

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

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

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

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

1 ~~limit plans to those with total fees the director considers~~
2 ~~reasonable based on all the facts and circumstances.)~~

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

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

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

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

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

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

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

25 (d) Identify and promote existing federal and state tax credits
26 and benefits for employers and employees that are related to
27 encouraging retirement savings or participating in retirement plans;
28 and

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

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

36 (3) The director shall direct the entity retained pursuant to
37 subsection (1) of this section to assure that licensed professionals
38 who assist their eligible business clients or employees to enroll in
39 a plan offered through the (~~Washington small business retirement~~

1 ~~marketplace~~) program may receive routine, market-based commissions
2 or other compensation for their services.

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

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

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

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

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

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

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

28 Using funds specifically appropriated for this purpose, and funds
29 provided by private foundations or other private sector entities, the
30 director may provide incentive payments to participating employers
31 that enroll in the (~~marketplace~~) program.

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

34 The director shall report biennially to the legislature on the
35 effectiveness and efficiency of the (~~Washington small business
36 retirement marketplace~~) secure choice retirement savings program,

1 including the levels of enrollment and the retirement savings levels
2 of participating enrollees that are obtained in aggregate on a
3 voluntary basis from private sector financial services firms that
4 participate in the (~~marketplace~~) program.

5 **Sec. 9.** RCW 43.330.750 and 2017 c 69 s 2 are each amended to
6 read as follows:

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

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

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

28 NEW SECTION. **Sec. 11.** RCW 43.330.730 (Finding—2015 c 296) is
29 decodified."

30 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.

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