

# SENATE BILL REPORT

## ESSB 6069

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As Passed Senate, February 12, 2024

**Title:** An act relating to improving retirement security for Washingtonians by establishing Washington saves, an automatic enrollment individual retirement savings account program, and updating the Washington retirement marketplace statute.

**Brief Description:** Improving private Washington workforce retirement security standards by establishing Washington saves, an automatic enrollment individual retirement savings account program, and updating the Washington retirement marketplace statute.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Mullet, Valdez, Hunt, Liias, Nguyen, Saldaña and Van De Wege; by request of State Treasurer).

**Brief History:**

**Committee Activity:** Ways & Means: 1/23/24, 2/02/24 [DPS, DNP, w/oRec].

**Floor Activity:** Passed Senate: 2/12/24, 43-6.

**Brief Summary of Engrossed First Substitute Bill**

- Requires certain employers that do not offer their employees a qualified retirement plan to allow employees to contribute to an individual retirement account through an automatic payroll deduction.
- Expands the Washington Small Business Retirement Marketplace to include employers with at least one eligible employee.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6069 be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Rivers, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hunt, Keiser, Muzzall, Pedersen, Randall, Saldaña, Torres, Van De Wege and

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

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**Minority Report:** Do not pass.

Signed by Senators Schoesler, Ranking Member, Capital; Hasegawa.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Wagoner.

**Staff:** Amanda Cecil (786-7460)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Amanda Cecil (786-7460)

**Background:** Private sector employers are not required by state or federal law to provide employer sponsored retirement plans. Instead, some small business employers may not offer the retirement plans due to concerns about costs, administrative burdens, and potential liability. Congress has enacted the 2019 SECURE Act and the 2022 SECURE 2.0 Act to make offering retirement plans more attractive to employers. Private sector employers offering retirement plans to their employees must comply with the Employee Retirement Income Security Act (ERISA). 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 access to federally regulated retirement investment options such as the Individual Retirement Account (IRA). Banks, investment firms, and financial planners advise and assist individuals in planning and investing for retirement.

The Washington Small Business Retirement Marketplace (Marketplace) was created in 2015, providing Washington self-employed individuals and employers with fewer than 100 employees the opportunity to participate in retirement plans. Participation in the plan is voluntary for employers, and the program may be supported by private, federal, or state funds. The Department of Commerce (Commerce) must contract with private sector entities to establish the Marketplace and establish protocols for participation. In order for the Marketplace to operate, there must be at least two approved plans. All private firms and plans that meet the requirements of the Marketplace may participate. Qualified plans on the Marketplace may not charge enrollees more than 100 basis points in total annual fees. The Department of Financial Institutions and the Office of the Insurance Commissioner are required to review retirement account products for eligibility for inclusion in the Marketplace.

**Summary of Engrossed First Substitute Bill:** Employer eligibility to enroll in a plan

through the Marketplace administered by Commerce is expanded to include employers with at least one eligible employee and no maximum.

The Washington Saves Program is created, requiring covered employers to allow employees an opportunity to contribute to an IRA through an automatic payroll deduction. Covered employers are businesses located in Washington State for at least two years, that had employees working a combined minimum of 10,400 hours during the previous calendar year, and that do not already offer employees a qualified retirement plan. Employers are required to enroll employees who have had continuous employment of one year or more in the program at default contribution rates. Employees may opt out of the program.

A nine member governing board is created to design, develop, implement, maintain, and oversee the program. Membership of the board includes:

- the State Treasurer, who shall act as chair of the board;
- the Director of Labor and Industries (L&I) or the director's designee; and
- the following members, appointed by the Governor:
  1. three members with demonstrated financial, legal, or other relevant program experience;
  2. one member representing the financial industry;
  3. one member representing a retirement advocacy organization;
  4. one member representing covered employers; and
  5. one member representing covered employees.

The board is responsible for contracting with outside firms to provide investment management and manage the performance of investment managers. Additionally the board will set the initial default contribution rates between 3 and 7 percent, a default escalation rate of not more than 1 percent, and a maximum default rate of 10 percent. The board must also adopt an investment policy statement and ensure that the investment options offered are consistent with the objectives of the program. The governing board will collect administrative fees to defray the cost of administering the program. The board will report to the Legislature annually on participation, account performance, board decisions, and any recommendations to the regarding the program. The board may enter the program into a consortium alliance, joint venture, partnership, compact or contract with another state or group of states.

Subject to appropriations, the Office of the Treasurer must provide staff and administrative support to the board. The Washington Saves Administrative Treasury Trust Account is created in the custody of the State Treasurer and is exempt from appropriation and allotment provisions. The State Treasurer or a designee may authorize expenditures from the account for administrative and operating expenses of the program.

L&I must educate employers of their responsibilities and in the case of noncompliance, investigate complaints, educate employers about how to come into compliance, and, issue citations and collect penalties. Complainants can be a covered employee or someone acting

on an employee's behalf. The maximum penalty for a first-time willful violation is \$100 and \$250 for a second willful violation. For subsequent willful violations, the employer is subject to a maximum penalty of \$500 for each violation. L&I must facilitate a process in which employers may appeal complaints.

The board is directed to launch the program by January 1, 2027, and may stagger implementation of the program in stages after this date.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill simplifies retirement for employees and employers and employees can opt out at any time. Nearly two out of three millennials have no retirement savings. Individual lack of savings has a significant impact on tax payers. If individuals saved just \$95 per month they would erase the added tax burden. The complexity and cost of administering a retirement savings plan is significant. Workers of color have a disproportionate lack of access to retirement savings through work. This program will address historical racial inequities in retirement savings. Many small business support this bill. Other states have created similar programs with over \$1 billion in assets under management. The Oregon plan has provided an easy, accessible way for employees to save. People are 15 times more likely to save when a savings option is provided through their work place. Accounts will be portable and remain with the worker.

CON: The auto IRA is the not the best way to address the lack of savings. The problem is a lack of liquidity rather than a lack options. A better option is encouraging multiemployer plans.

OTHER: Withdrawal and opt out rates are high under the existing programs. A better option is a pooled employer program such as the program moving forward in Nevada. An automatic IRA disincentives pooled employer plan programs and does not provide employers with federal tax benefits.

**Persons Testifying:** PRO: Senator Mark Mullet, Prime Sponsor; John Scott, The Pew Charitable Trusts; Jill Nelson; Mike Pellicciotti, State Treasurer; Travis Rosenthal, Pike Street Hospitality Group; Paula Sardinias, WBBA (WA Build Back Alliance); Nathan Glassey, American Retirement Association; Petros Koumantaros, Spectrum Pension Consultants; Cathy MacCaul, AARP Washington State.

CON: Chris Bandoli, National Association of Insurance and Financial Advisors  
Washington.

OTHER: John Mangan, American Council of Life Insurers; John Suk, Portalus.

**Persons Signed In To Testify But Not Testifying:** No one.