

SHB 2109 - S COMM AMD

By Committee on Ways & Means

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that there is a
4 retirement savings access gap in Washington; that Americans reach the
5 median salary four years later than they did in 1980 and therefore
6 have four fewer years of savings opportunities; and that one in six
7 Americans retire in poverty. Employees who are unable to effectively
8 build their retirement savings risk living on low incomes in their
9 elderly years and are more likely to become dependent on state
10 services. Further, small businesses, which employ more than forty
11 percent of private sector employees in Washington, often choose not
12 to offer retirement plans to employees due to concerns about costs,
13 administrative burdens, and potential liability that they believe
14 such plans would place on their business. In response, the
15 legislature recognizes the work of the federal government in
16 addressing these issues by establishing the myRA program: A safe,
17 affordable, and accessible retirement vehicle designed to remove
18 barriers to retirement savings. In addition, the legislature
19 recognizes that many private financial services firms in Washington
20 currently offer high quality retirement options for small businesses
21 and their employees.

22 The Washington small business retirement marketplace will remove
23 barriers to entry into the retirement market for small businesses by
24 educating small employers on plan availability and promoting, without
25 mandated participation, qualified, low-cost, low-burden retirement
26 savings vehicles and myRA. The marketplace furthers greater
27 retirement plan access for the residents of Washington while ensuring
28 that individuals participating in these retirement plans will have
29 all the protections offered by the employee retirement income
30 security act. Further, the Washington small business retirement
31 marketplace will not pose any significant financial burden upon
32 taxpayers. The Washington small business retirement marketplace will
33 be the best way for Washington to close the retirement savings access
34 gap, protect the fiscal stability of the state and its citizens well

1 into the future, and further cement its place as a national leader in
2 retirement and investor promotion and protection. The marketplace
3 will educate and promote retirement saving among employees and in
4 particular market to small employers with fifty or fewer employees.

5 NEW SECTION. **Sec. 2.** The definitions in this section apply
6 throughout this subchapter unless the context clearly requires
7 otherwise.

8 (1) "Approved plans" means retirement plans offered by private
9 sector financial services firms that meet the requirements of this
10 chapter to participate in the marketplace.

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

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

18 (4) "Enrollee" means any employee who is voluntarily enrolled in
19 an approved plan offered by an eligible employer through the
20 Washington small business retirement marketplace.

21 (5) "myRA" means the myRA retirement program administered by the
22 United States department of the treasury that is available to all
23 employers and employees with no fees or no minimum contribution
24 requirements. A myRA is a Roth IRA option and investments in these
25 accounts are backed by the United States department of the treasury.

26 (6) "Participating employer" means any eligible employer with
27 employees enrolled in an approved plan offered through the Washington
28 small business retirement marketplace who chooses to participate in
29 the marketplace and offers approved plans to employees for voluntary
30 enrollment.

31 (7) "Private sector financial services firms" or "financial
32 services firms" mean persons or entities licensed or holding a
33 certificate of authority and in good standing by either the
34 department of financial institutions or the office of the insurance
35 commissioner and meeting all federal laws and regulations to offer
36 retirement plans.

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

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

6 (10) "Washington small business retirement marketplace" or
7 "marketplace" means the retirement savings program created to connect
8 eligible employers and their employees with approved plans to
9 increase retirement savings.

10 NEW SECTION. **Sec. 3.** (1) The Washington small business
11 retirement marketplace is created.

12 (2) Prior to connecting any eligible employer with an approved
13 plan in the marketplace, the director shall design a plan for the
14 operation of the marketplace.

15 (3) The director shall consult with the Washington state
16 department of retirement systems, the Washington state investment
17 board, and the department of financial institutions in designing and
18 managing the marketplace.

19 (4) The director shall approve for participation in the
20 marketplace all private sector financial services firms that meet the
21 requirements of section 2(7) of this act.

22 (5) A range of investment options must be provided to meet the
23 needs of investors with various levels of risk tolerance and various
24 ages. The director must approve a diverse array of private retirement
25 plan options that are available to employers on a voluntary basis,
26 including life insurance plans that are designed for retirement
27 purposes, and at least two types of plans for eligible employer
28 participation: (a) A SIMPLE IRA-type plan that provides for employer
29 contributions to participating enrollee accounts; and (b) a payroll
30 deduction individual retirement account type plan or workplace-based
31 individual retirement accounts open to all workers in which the
32 employer does not contribute to the employees' account.

33 (6) Prior to approving a plan to be offered on the marketplace,
34 the department must receive verification from the department of
35 financial institutions and the office of the insurance commissioner
36 (a) that the private sector financial services firm offering the plan
37 meets the requirements of section 2(7) of this act; and (b) that the
38 plan meets the requirements of this section. The director may remove
39 approved plans that no longer meet the requirements of this chapter.

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

6 (8) In order for the marketplace to operate, there must be at
7 least two financial services firms offering approved plans on the
8 marketplace; however, nothing in this subsection shall be construed
9 to limit the number of private sector financial services firms with
10 approved plans from participating in the marketplace.

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

13 (10) The approved plans must include the option for enrollees to
14 roll pretax contributions into a different individual retirement
15 account or another eligible retirement plan after ceasing
16 participation in a plan approved by the Washington small business
17 retirement marketplace.

18 (11) Financial services firms selected by the department to offer
19 approved plans on the marketplace may not charge the participating
20 employer an administrative fee and may not charge enrollees more than
21 one hundred basis points in total annual fees and must provide
22 information about their product's historical investment performance.

23 (12) Participation in the Washington small business retirement
24 marketplace is voluntary for both eligible employers and qualified
25 employees.

26 (13) Enrollment in any approved plan offered in the marketplace
27 is not an entitlement.

28 NEW SECTION. **Sec. 4.** (1) The director shall contract with a
29 private sector entity to:

30 (a) Establish a protocol for reviewing and approving the
31 qualifications of all private sector financial services firms that
32 meet the qualifications to participate in the marketplace;

33 (b) Design and operate an internet web site that includes
34 information about how eligible employers can voluntarily participate
35 in the marketplace;

36 (c) Develop marketing materials about the marketplace that can be
37 distributed electronically, posted on agency web sites that interact
38 with eligible employers, or inserted into mail from the department of
39 revenue, department of labor and industries, employment security

1 department, the office of minority and women's business enterprises,
2 department of licensing, and secretary of state's division of
3 corporations;

4 (d) Identify and promote existing federal and state tax credits
5 and benefits for employers and employees that are related to
6 encouraging retirement savings or participating in retirement plans;
7 and

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

10 (2) The director shall address how rollovers are handled for
11 eligible Washington employers that have workers in other states, and
12 whether out-of-state employees with existing IRA's can roll them into
13 the plans offered through the Washington small business retirement
14 marketplace.

15 (3) The director shall direct the entity retained pursuant to
16 subsection (1) of this section to assure that licensed professionals
17 who assist their eligible business clients or employees to enroll in
18 a plan offered through the Washington small business retirement
19 marketplace may receive routine, market-based commissions or other
20 compensation for their services.

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

25 (5) The director shall encourage the participation of private
26 sector financial services firms in the marketplace.

27 NEW SECTION. **Sec. 5.** In addition to any appropriated funds, the
28 director may use private funding sources, including private
29 foundation grants, to pay for marketplace expenses. On behalf of the
30 marketplace, the department shall seek federal and private grants and
31 is authorized to accept any funds awarded to the department for use
32 in the marketplace.

33 NEW SECTION. **Sec. 6.** The department shall not expose the state
34 of Washington as an employer or through administration of the
35 marketplace to any potential liability under the federal employee
36 retirement income act of 1974. As such, the department is
37 specifically prohibited from offering and operating a state-based

1 retirement plan for businesses or individuals who are not employed by
2 the state of Washington.

3 NEW SECTION. **Sec. 7.** Using funds specifically appropriated for
4 this purpose, and funds provided by private foundations or other
5 private sector entities, the director may provide incentive payments
6 to participating employers that enroll in the marketplace.

7 NEW SECTION. **Sec. 8.** The director shall report biennially to
8 the legislature on the effectiveness and efficiency of the Washington
9 small business retirement marketplace, including the levels of
10 enrollment and the retirement savings levels of participating
11 enrollees that are obtained in aggregate on a voluntary basis from
12 private sector financial services firms that participate in the
13 marketplace.

14 NEW SECTION. **Sec. 9.** The director shall adopt rules necessary
15 to allow the marketplace to operate as authorized by this subchapter.
16 As part of the rule development process, the director shall consult
17 with organizations representing eligible employers, qualified
18 employees, private and nonprofit sector retirement plan
19 administrators and providers, organizations representing private
20 sector financial services firms, and any other individuals or
21 entities that the director determines relevant to the development of
22 an effective and efficient method for operating the marketplace. The
23 rules must be proposed by January 1st of the year of implementation
24 and rules shall not be adopted until after the end of the regular
25 legislative session of that year.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.320
27 RCW to read as follows:

28 The department of financial institutions, annually, or upon
29 request of the department of commerce, must review individual
30 retirement account products proposed for inclusion in the Washington
31 small business retirement marketplace to confirm that the products
32 comply with the requirements of section 3 of this act.

33 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
34 conflict with federal requirements that are a prescribed condition to
35 the allocation of federal funds to the state, the conflicting part of

1 this act is inoperative solely to the extent of the conflict and with
2 respect to the agencies directly affected, and this finding does not
3 affect the operation of the remainder of this act in its application
4 to the agencies concerned. Rules adopted under this act must meet
5 federal requirements that are a necessary condition to the receipt of
6 federal funds by the state.

7 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act are each
8 added to chapter 43.330 RCW and codified with the subchapter heading
9 of "Washington small business retirement marketplace."

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10 On page 1, line 2 of the title, after "marketplace;" strike the
11 remainder of the title and insert "adding new sections to chapter
12 43.330 RCW; adding a new section to chapter 43.320 RCW; and creating
13 a new section."

EFFECT: Clarifies that private sector financial services firms include those entities holding a certificate of authority from the office of the insurance commissioner; the director must approve for participation in the marketplace all firms that meet the definition of private sector financial services firms and plans that meet the requirements of the act; financial services firms may not charge the participating employer an administrative fee.

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