

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5826

64th Legislature
2015 Regular Session

Passed by the Senate April 21, 2015
Yeas 27 Nays 22

President of the Senate

Passed by the House April 10, 2015
Yeas 57 Nays 40

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5826** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5826

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington

64th Legislature

2015 Regular Session

By Senate Ways & Means (originally sponsored by Senators Mullet and Benton)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to creating the Washington small business
2 retirement marketplace; adding new sections to chapter 43.330 RCW;
3 adding a new section to chapter 43.320 RCW; and creating a new
4 section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

1 recognizes that many private financial services firms in Washington
2 currently offer high quality retirement options for small businesses
3 and their employees.

4 The Washington small business retirement marketplace will remove
5 barriers to entry into the retirement market for small businesses by
6 educating small employers on plan availability and promoting, without
7 mandated participation, qualified, low-cost, low-burden retirement
8 savings vehicles and myRA. The marketplace furthers greater
9 retirement plan access for the residents of Washington while ensuring
10 that individuals participating in these retirement plans will have
11 all the protections offered by the employee retirement income
12 security act. Further, the Washington small business retirement
13 marketplace will not pose any significant financial burden upon
14 taxpayers. The Washington small business retirement marketplace will
15 be the best way for Washington to close the retirement savings access
16 gap, protect the fiscal stability of the state and its citizens well
17 into the future, and further cement its place as a national leader in
18 retirement and investor promotion and protection. The marketplace
19 will educate and promote retirement saving among employees and in
20 particular market to small employers with fifty or fewer employees.

21 NEW SECTION. **Sec. 2.** The definitions in this section apply
22 throughout this subchapter unless the context clearly requires
23 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.

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.

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

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

37 (5) "myRA" means the myRA retirement program administered by the
38 United States department of the treasury that is available to all
39 employers and employees with no fees or no minimum contribution

1 requirements. A myRA is a Roth IRA option and investments in these
2 accounts are backed by the United States department of the treasury.

3 (6) "Participating employer" means any eligible employer with
4 employees enrolled in an approved plan offered through the Washington
5 small business retirement marketplace who chooses to participate in
6 the marketplace and offers approved plans to employees for voluntary
7 enrollment.

8 (7) "Private sector financial services firms" or "financial
9 services firms" mean persons or entities licensed or holding a
10 certificate of authority and in good standing by either the
11 department of financial institutions or the office of the insurance
12 commissioner and meeting all federal laws and regulations to offer
13 retirement plans.

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

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

22 (10) "Washington small business retirement marketplace" or
23 "marketplace" means the retirement savings program created to connect
24 eligible employers and their employees with approved plans to
25 increase retirement savings.

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

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

31 (3) The director shall consult with the Washington state
32 department of retirement systems, the Washington state investment
33 board, and the department of financial institutions in designing and
34 managing the marketplace.

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

38 (5) A range of investment options must be provided to meet the
39 needs of investors with various levels of risk tolerance and various

1 ages. The director must approve a diverse array of private retirement
2 plan options that are available to employers on a voluntary basis,
3 including life insurance plans that are designed for retirement
4 purposes, and at least two types of plans for eligible employer
5 participation: (a) A SIMPLE IRA-type plan that provides for employer
6 contributions to participating enrollee accounts; and (b) a payroll
7 deduction individual retirement account type plan or workplace-based
8 individual retirement accounts open to all workers in which the
9 employer does not contribute to the employees' account.

10 (6) Prior to approving a plan to be offered on the marketplace,
11 the department must receive verification from the department of
12 financial institutions and the office of the insurance commissioner
13 (a) that the private sector financial services firm offering the plan
14 meets the requirements of section 2(7) of this act; and (b) that the
15 plan meets the requirements of this section excluding subsection (9)
16 of this section which is subject to federal laws and regulations. The
17 director may remove approved plans that no longer meet the
18 requirements of this chapter.

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

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

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

31 (10) The approved plans must include the option for enrollees to
32 roll pretax contributions into a different individual retirement
33 account or another eligible retirement plan after ceasing
34 participation in a plan approved by the Washington small business
35 retirement marketplace.

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

1 (12) Participation in the Washington small business retirement
2 marketplace is voluntary for both eligible employers and qualified
3 employees.

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

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

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

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

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

21 (d) Identify and promote existing federal and state tax credits
22 and benefits for employers and employees that are related to
23 encouraging retirement savings or participating in retirement plans;
24 and

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

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

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

38 (4) The director shall ensure by rule that there is objective
39 criteria in the protocol provided in subsection (1)(a) of this

1 section and that the protocol does not provide unfair advantage to
2 the private sector entity which establishes the protocol.

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

5 NEW SECTION. **Sec. 5.** In addition to any appropriated funds, the
6 director may use private funding sources, including private
7 foundation grants, to pay for marketplace expenses. On behalf of the
8 marketplace, the department shall seek federal and private grants and
9 is authorized to accept any funds awarded to the department for use
10 in the marketplace.

11 NEW SECTION. **Sec. 6.** The department shall not expose the state
12 of Washington as an employer or through administration of the
13 marketplace to any potential liability under the federal employee
14 retirement income act of 1974. As such, the department is
15 specifically prohibited from offering and operating a state-based
16 retirement plan for businesses or individuals who are not employed by
17 the state of Washington.

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

22 NEW SECTION. **Sec. 8.** The director shall report biennially to
23 the legislature on the effectiveness and efficiency of the Washington
24 small business retirement marketplace, including the levels of
25 enrollment and the retirement savings levels of participating
26 enrollees that are obtained in aggregate on a voluntary basis from
27 private sector financial services firms that participate in the
28 marketplace.

29 NEW SECTION. **Sec. 9.** The director shall adopt rules necessary
30 to allow the marketplace to operate as authorized by this subchapter.
31 As part of the rule development process, the director shall consult
32 with organizations representing eligible employers, qualified
33 employees, private and nonprofit sector retirement plan
34 administrators and providers, organizations representing private
35 sector financial services firms, and any other individuals or

1 entities that the director determines relevant to the development of
2 an effective and efficient method for operating the marketplace. The
3 rules must be proposed by January 1st of the year of implementation
4 and rules shall not be adopted until after the end of the regular
5 legislative session of that year.

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

8 The department of financial institutions, annually, or upon
9 request of the department of commerce, must review individual
10 retirement account products proposed for inclusion in the Washington
11 small business retirement marketplace to confirm that the products
12 comply with the requirements of section 3 of this act, except for
13 those requirements that pertain to federal laws and regulations.

14 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
15 conflict with federal requirements that are a prescribed condition to
16 the allocation of federal funds to the state, the conflicting part of
17 this act is inoperative solely to the extent of the conflict and with
18 respect to the agencies directly affected, and this finding does not
19 affect the operation of the remainder of this act in its application
20 to the agencies concerned. Rules adopted under this act must meet
21 federal requirements that are a necessary condition to the receipt of
22 federal funds by the state.

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

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