LEGISLATIVE BILL 79

Introduced by Blood, 3.

Read first time January 05, 2017

Committee: Nebraska Retirement Systems

A BILL FOR AN ACT relating to private retirement plans; to adopt the


Be it enacted by the people of the State of Nebraska,
Section 1. This act shall be known and may be cited as the Small Business Retirement Marketplace Act.

Sec. 2. The Legislature finds and declares that:

(1) It is appropriate to create a small business retirement marketplace in Nebraska because there is a retirement savings gap in the state, one in six Americans retire in poverty, and employees who are unable to effectively build their retirement savings risk living on low incomes in their elderly years and are more likely to become dependent on state services;

(2) Small businesses, which employ a large segment of Nebraska's private workforce, often choose not to offer retirement plans to employees due to concerns about the cost, administrative burden, and potential liability that they believe would be placed on their businesses;

(3) The federal government has attempted to address the savings gap by establishing myRA, a federal program that provides a safe, affordable, and accessible retirement vehicle designed to remove barriers to retirement savings;

(4) The small business retirement marketplace will remove the barriers to entry into the retirement marketplace for small businesses by educating small employers on plan availability and promoting, without mandating participation, qualified, low-cost, low-burden retirement savings vehicles and myRA. The marketplace furthers greater retirement plan access for the residents of Nebraska while ensuring that individuals participating in these retirement plans will have all the protections offered by federal law;

(5) The small business retirement marketplace should not place any financial burden upon taxpayers in the state and it should not be implemented if it is determined that there is any financial exposure to the state;

(6) The small business retirement marketplace will be the best way
for Nebraska to close the retirement savings access gap, protect the
classical stability of the state and its residents well into the future,
become a national leader in retirement and investor promotion and
protection, and educate and promote retirement saving among employees and
small employers;

(7) Although most Nebraska residents hope to retire one day, many
are anxious about saving enough money so they can afford to do so, and it
is estimated that many private sector workers in Nebraska do not have
access to a retirement savings plan through their employer. The National
Institute of Retirement Security describes this as a growing consumer
crisis, because the typical family has saved only two thousand five
hundred dollars for their retirement;

(8) AARP, Inc., has been instrumental in leading a national
initiative called Work and Save to deal with retirement insecurity by
promoting state run retirement programs, including the Washington Small
Business Retirement Marketplace signed into law in 2015, designed to
provide thousands of small business employees access to retirement plans
by creating a voluntary public-private partnership marketplace that will
educate small business employers on existing private sector retirement
plan vendors;

(9) The Washington marketplace was the result of public and private
organizations coming together to find the most effective and efficient
way to close the retirement savings access gap, and the Washington
marketplace has been endorsed by AARP, Inc., the Securities Industry and
Financial Markets Association, the American Council of Life Insurers, the
Washington Bankers Association, and various employer groups; and

(10) By following this model, the small business retirement
marketplace in Nebraska will provide a market-based approach so that
small businesses can offer a simple and inexpensive way to offer private
savings to their employees which will result in workers saving more for
retirement throughout their lives.
Sec. 3. For purposes of the Small Business Retirement Marketplace Act:

(1) Approved plans means retirement plans offered by private sector financial services firms that meet the requirements of the act to participate in the marketplace;

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

(3) Eligible employer means a person, firm, corporation, partnership, sole proprietor, or other employer that is actively engaged in business with fewer than one hundred qualified employees at the time of enrollment and that has a majority of its employees employed in Nebraska;

(4) Enrollee means any employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the marketplace;

(5) Marketplace means the small business retirement marketplace in Nebraska which is a retirement savings program created to connect eligible employers and their employees with approved plans to increase retirement savings;

(6) myRA means the myRA retirement program administered by the United States Department of the Treasury that is available to all employers and employees with no fees or no minimum contribution requirements. myRA is a Roth IRA option. Investments in these accounts are backed by the United States Department of the Treasury;

(7) Participating employer means any eligible employer with employees enrolled in an approved plan offered through the marketplace which chooses to participate in the marketplace and offers approved plans to employees for voluntary enrollment;

(8) Private sector financial services firms means persons or entities licensed or holding a certificate of authority or authorized to
do business in the state, in good standing with the Department of Banking and Finance and the Consumer Protection Division of the Attorney General's office, and meeting all federal laws and regulations to offer retirement plans:

(9) Qualified employee means those employees who are defined by the Internal Revenue Service to be eligible to participate in a specific qualified plan; and

(10) Target date or other similar fund means a mutual fund that automatically resets the asset mix of stocks, bonds, cash equivalents, and other investments in its portfolio according to a selected timeframe that is appropriate for a particular investor and is structured to address a projected retirement date.

Sec. 4. The small business retirement marketplace is created in the office of the State Treasurer.

Sec. 5. (1) The State Treasurer shall design and implement a plan for the operation of the marketplace pursuant to the Small Business Retirement Marketplace Act. The State Treasurer shall facilitate the connections between eligible employers and approved plans included in the marketplace.

(2) The State Treasurer shall consult with the state investment officer, the Director of Banking and Finance or his or her designee, the Commissioner of Labor or his or her designee, the chairperson of the Nebraska Investment Council or his or her designee, and the director of the Public Employees Retirement Board or his or her designee in designing and managing the marketplace.

(3) The State Treasurer shall approve private sector financial services firms for participation in the marketplace. The State Treasurer shall ensure that the range of investment options offered by the financial services firms is sufficient to meet the needs of investors with various levels of risk tolerance and various ages. The State Treasurer shall ensure that any individual retirement account products
proposed for inclusion in the marketplace comply with the requirements of this section.

(4) The State Treasurer shall approve a diverse array of private retirement plan options that are available to employers on a voluntary basis, including life insurance plans that are designed for retirement purposes, and at least two types of plans for eligible employer participation, including:

(a) A simple IRA-type plan that provides for employer contributions to participating enrollee accounts; and

(b) A payroll deduction individual retirement account-type plan or workplace-based individual retirement accounts open to all employees in which the employer does not contribute to the employees' accounts.

(5) Prior to approving a plan to be offered in the marketplace, the State Treasurer shall obtain certification from the Department of Banking and Finance and the Consumer Protection Division of the Attorney General's office that the financial services firm providing the plan is in good standing with the department and the Attorney General and shall ensure that the plan meets the requirements of the Small Business Retirement Marketplace Act. The State Treasurer may at any time remove any approved plan from the marketplace that no longer meets the requirements of the Small Business Retirement Marketplace Act.

(6) The financial services firms participating in the marketplace shall offer a minimum of two product options, including:

(a) A target date or other similar fund; and

(b) A balanced fund.

(7) The marketplace shall offer myRA in addition to any other approved plan. The marketplace shall not operate unless there are at least two financial services firms offering approved plans in the marketplace, except that nothing in this section shall be construed to limit the number of financial services firms with approved plans participating in the marketplace.
(8) The State Treasurer shall ensure that approved plans are compliant with any federal law or regulation regarding retirement plans approved by the Internal Revenue Service.

(9) Approved plans shall include the option for enrollees to roll pretax contributions into a different individual retirement account or another eligible retirement plan after ceasing participation in a plan approved for the marketplace.

(10) Financial services firms selected by the State Treasurer to offer approved plans in the marketplace shall not charge the participating employer an administrative fee or surcharge, shall not charge enrollees more than one hundred basis points in total annual fees, and shall provide information about their product's historical investment performance.

(11) Participation in the marketplace is voluntary for both eligible employers and qualified employees and enrollment in any approved plan offered in the marketplace is not an entitlement.

(12) The State Treasurer shall establish a protocol to address rollovers for eligible employers that have employees in other states and to address whether out-of-state employees with existing individual retirement accounts may roll them into the plans offered through the marketplace.

(13) The State Treasurer may establish a fee schedule that charges financial services firms that participate in the marketplace in order to cover the startup and annual administrative expenses of the office of the State Treasurer in the performance of its duties under the Small Business Retirement Marketplace Act.

Sec. 6. (1) The State Treasurer shall contract with one or more private sector entities to:

(a) Establish a protocol for reviewing and approving the qualifications of private sector financial services firms that meet the requirements to participate in the marketplace;
(b) Design and operate an Internet web site that includes information on how eligible employers can voluntarily participate in the marketplace;

(c) Develop marketing materials about the marketplace that can be distributed electronically or posted on both public and private sector web sites;

(d) 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

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

(2) The State Treasurer shall direct any private sector entity contracted pursuant to subsection (1) of this section to assure that licensed professionals who assist their clients that are eligible employers or their employees to enroll in a plan offered through the marketplace will receive routine, market-based commissions or other compensation for their services.

(3) The State Treasurer shall establish rules to ensure that there are objective criteria in the protocol established pursuant to subdivision (1)(a) of this section and that the protocol does not provide an unfair advantage to the private sector entity that establishes the protocol.

Sec. 7. In addition to any funds appropriated for the purposes of the Small Business Retirement Marketplace Act, the State Treasurer shall approve the use of private funding sources, including private foundation grants, to pay for marketplace expenses. On behalf of the marketplace, the State Treasurer shall seek federal and private grants and may accept any funds awarded to the State Treasurer for use in designing, implementing, and operating the marketplace.

Sec. 8. The State Treasurer shall not expose the State of Nebraska as an employer or through administration of the marketplace to any

Sec. 9. The State Treasurer shall approve incentive payments to participating employers that enroll in the marketplace if there are sufficient funds provided by private foundations or other private sector entities.

Sec. 10. The State Treasurer shall report biennially to the Legislature on the effectiveness and efficiency of the marketplace, including levels of enrollment and the retirement savings levels of enrollees that are obtained in aggregate on a voluntary basis from private sector financial services firms that participate in the marketplace. The report shall be submitted electronically.

Sec. 11. The State Treasurer shall adopt and promulgate rules and regulations necessary to effectuate the purposes of the Small Business Retirement Marketplace Act. In adopting and promulgating such rules and regulations, the State Treasurer shall consult with organizations representing eligible employers, qualified employees, private and nonprofit sector retirement plan administrators and providers, private sector financial services firms, and any other individuals or entities that the State Treasurer determines relevant to the effective and efficient method for effectuating the purposes of the Small Business Retirement Marketplace Act.