

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 79

Introduced by Blood, 3.

Read first time January 05, 2017

Committee:

- 1 A BILL FOR AN ACT relating to private retirement plans; to adopt the
- 2 Small Business Retirement Marketplace Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as the Small
2 Business Retirement Marketplace Act.

3 Sec. 2. The Legislature finds and declares that:

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

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

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

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

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

31 (6) The small business retirement marketplace will be the best way

1 for Nebraska to close the retirement savings access gap, protect the
2 fiscal stability of the state and its residents well into the future,
3 become a national leader in retirement and investor promotion and
4 protection, and educate and promote retirement saving among employees and
5 small employers;

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

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

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

27 (10) By following this model, the small business retirement
28 marketplace in Nebraska will provide a market-based approach so that
29 small businesses can offer a simple and inexpensive way to offer private
30 savings to their employees which will result in workers saving more for
31 retirement throughout their lives.

1 Sec. 3. For purposes of the Small Business Retirement Marketplace
2 Act:

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

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

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

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

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

21 (6) 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. myRA is a Roth IRA option. Investments in these accounts
25 are backed by the United States Department of the Treasury;

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

30 (8) Private sector financial services firms means persons or
31 entities licensed or holding a certificate of authority or authorized to

1 do business in the state, in good standing with the Department of Banking
2 and Finance and the Consumer Protection Division of the Attorney
3 General's office, and meeting all federal laws and regulations to offer
4 retirement plans;

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

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

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

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

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

26 (3) The State Treasurer shall approve private sector financial
27 services firms for participation in the marketplace. The State Treasurer
28 shall ensure that the range of investment options offered by the
29 financial services firms is sufficient to meet the needs of investors
30 with various levels of risk tolerance and various ages. The State
31 Treasurer shall ensure that any individual retirement account products

1 proposed for inclusion in the marketplace comply with the requirements of
2 this section.

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

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

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

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

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

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

25 (b) A balanced fund.

26 (7) The marketplace shall offer myRA in addition to any other
27 approved plan. The marketplace shall not operate unless there are at
28 least two financial services firms offering approved plans in the
29 marketplace, except that nothing in this section shall be construed to
30 limit the number of financial services firms with approved plans
31 participating in the marketplace.

1 (8) The State Treasurer shall ensure that approved plans are
2 compliant with any federal law or regulation regarding retirement plans
3 approved by the Internal Revenue Service.

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

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

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

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

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

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

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

1 (b) Design and operate an Internet web site that includes
2 information on how eligible employers can voluntarily participate in the
3 marketplace;

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

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

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

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

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

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

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

1 liability under the federal Employee Retirement Income Security Act of
2 1974.

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

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

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