



State-Sponsored Retirement Plans

By Luisa Altmann and Erin Reynolds

This *issue brief* provides an overview of state-sponsored retirement plans, retirement plan marketplaces, and multiple employer retirement plans for private sector workers. The brief also includes a discussion of related federal laws and Congressional activity.

Colorado Secure Savings Program

In 2019, the Colorado General Assembly passed Senate Bill 19-173, which created a nine-member Colorado Secure Savings Plan Board in the Office of the State Treasurer.¹ In 2020, the legislature adopted Senate Bill 20-200, which implements the board's recommendation that the state create a state-facilitated, privately administered, automatic individual retirement account (IRA) program. The renamed Colorado Secure Savings Program Board is currently involved in rulemaking to develop the program. For more information, visit the board's [website](#).

Other State-Sponsored Retirement Plans

Several other states have enacted laws establishing state-sponsored retirement plans for private sector workers. The basic model used across these states is to automatically enroll private sector workers who lack access to an employer-sponsored retirement plan in a state-sponsored individual retirement account that is administered by an independent board.

These state laws have several common provisions. The laws generally require that private sector employers of a certain size either offer their

employees the ability to enroll in a qualifying private employer-sponsored retirement program, or automatically enroll their employees in the state-sponsored retirement plan. Employees enrolled in the state-sponsored retirement plan have their contributions automatically withdrawn by their employer, who is required to send the contributions to the plan's administrators. All of the state laws include provisions that allow employees to set their contribution rate at a rate that is different than the default rate, or to opt out of the program altogether. Employers are prohibited from contributing to the plans in order to comply with federal law (see the federal laws section on page 2 for additional information).

States with operational programs. The state-sponsored retirement plan programs in three states—California, Illinois, and Oregon—are currently operational.²

- **California.** In 2012, California became the first state to enact a law creating a state-sponsored retirement plan.³ Following a market analysis, program design, and financial feasibility study, the California legislature passed a bill in 2016 to implement the program. The California Secure Choice Retirement Savings Program, known as [CalSavers](#), applies to all private sector employers with five or more employees. Smaller employers may opt in to the program. The program began enrolling employers in July 2019 according to a phase-in schedule based on employer size. Employers with five or more employees are required to enroll in the program, or provide proof of exemption by June 30, 2022. As of September 2020, 3,500 employers had enrolled in

¹Section 24-54.3-101, *et seq.*, C.R.S.

²September 2020 reports for operational programs are located at these websites: [California](#), [Illinois](#), and [Oregon](#).

³Cal. Gov. Code § 100000, *et seq.*

the program and there were a total of 27,544 funded accounts.

- **Illinois.** In 2015, Illinois created the [Illinois Secure Choice Savings Program](#), which applies to private sector employers with 25 or more employees that have been in business for at least two years.⁴ Smaller employers may choose to opt in to the program to allow their employees to participate in the program. A feasibility study was conducted, and the program began enrolling employers in 2018 according to a phase-in schedule based on employer size. All employers with 25 or more employees were required to enroll in the program, or provide proof of exemption by November 1, 2019. As of September 2020, 5,843 employers had enrolled in the program and there were a total of 71,568 funded accounts.
- **Oregon.** In 2015, following a study by the Oregon Retirement Savings Task Force, Oregon created the Oregon Retirement Savings Plan, known as [OregonSaves](#).⁵ The program applies to all employers, regardless of size. Feasibility and market analysis studies were conducted, and the program began enrolling employers in 2017 according to a phase-in schedule based on employer size. All employers must enroll in the program, or provide proof of exemption by January 15, 2021. As of September 2020, 14,235 employers had enrolled in the program and there were a total of 74,333 funded accounts.

States with programs that are not yet enrolling employers. Five other states have passed laws to create state-sponsored retirement plan programs, but these programs are not yet operational. These states include:

- Connecticut;⁶
- Maryland;⁷
- New Jersey;⁸

- New Mexico;⁹ and
- New York.¹⁰

Retirement marketplaces. In 2015, the Washington legislature created the [Washington Small Business Retirement Marketplace](#), which launched in March 2018.¹¹ Employers with fewer than 100 employees may voluntarily enroll in pre-approved, private retirement plans through the state-sponsored marketplace.

Multiple employer retirement plans. At least two other states, including Massachusetts ([MA CORE](#)) and Vermont ([Green Mountain Secure Retirement Plan](#)), have created or are in the process of creating a state-sponsored multiple employer retirement plan program. These plans allow multiple unrelated employers to participate in a single retirement plan.¹² The Massachusetts plan only applies to nonprofit organizations with 20 employees or fewer.

Federal Laws and Congressional Action

The Employee Retirement Income Security Act (ERISA). ERISA sets standards for pension and retirement plans, and provides consumer protections. ERISA specifically preempts state laws that address ERISA-covered employee benefit plans.¹³

In August 2016, the U.S. Department of Labor ruled that plans established through state-sponsored retirement programs do not fall under ERISA. However, these rules were later nullified by Congress.¹⁴ Following Congress's nullification of these rules, several lawsuits were filed against state-sponsored retirement plans arguing that these plans are in violation of ERISA. For example, a pending lawsuit is challenging the validity of the California CalSavers program to operate under ERISA.

⁴820 Ill. Comp. Stat. § 80/1, *et seq.*

⁵Or. Rev. Stat. § 178.200, *et seq.*

⁶Conn. Gen. Stat. § 31-416, *et seq.*

⁷Md. Code, Lab. & Emp. Law § 12-101, *et seq.*

⁸N.J. Rev. Stat. § 43:23-13, *et seq.*

⁹House Bill 44, 2020 Regular Session.

¹⁰N.Y. Gen. Bus. Law § 1300, *et seq.*

¹¹Wash. Rev. Code § 43.330.730, *et seq.*

¹²Mass. Gen. Laws ch. 29, § 64E; Vermont Act 69 of 2017.

¹³29 U.S.C. § 1144.

¹⁴29 CFR § 2510.2 (h).