



2023 ASSEMBLY BILL 1138

March 6, 2024 - Introduced by Representatives DRAKE, RATCLIFF, JOERS, BALDEH, JACOBSON, SHANKLAND, SUBECK, C. ANDERSON, EMERSON, CONLEY, SINICKI, MOORE OMOKUNDE, HONG, J. ANDERSON, BARE and OHNSTAD, cosponsored by Senators AGARD, WIRCH, SPREITZER and ROYS. Referred to Committee on Labor and Integrated Employment.

1 **AN ACT** *to amend* 20.144 (1) (g); and *to create* 20.144 (1) (c), 20.144 (1) (cd) and
2 224.56 of the statutes; **relating to:** a retirement plan marketplace, granting
3 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Financial Institutions to establish and manage a retirement plan marketplace to connect individuals who are residents of this state (eligible individuals) and employers that have fewer than 100 employees and that employ at least one individual who is a resident of this state (small employers) with retirement plans offered by private financial services firms, to improve access to retirement income options for eligible individuals, to encourage eligible individuals to plan for retirement and increase retirement savings, and to remove barriers to entry for small employers to offer retirement plan options to employees. Under the bill, DFI must contract with a vendor to create a website to host the marketplace.

The bill provides that a financial services firm that wants to offer retirement plans on the marketplace may apply to DFI, and DFI may approve the firm to participate if the firm offers high quality retirement plans that comply with the federal Employee Retirement Income Security Act of 1974, commonly called ERISA. For each firm approved to participate in the marketplace, DFI must specify the retirement plans the firm may offer on the marketplace. The bill requires DFI to ensure that the marketplace offers only ERISA compliant retirement plans with reasonable fees and offers a range of retirement plans and investment options,

ASSEMBLY BILL 1138

including retirement plans for investors with various levels of risk tolerance and of various ages and retirement plans that are environmentally friendly and socially responsible. The bill limits the administrative fees a firm may charge a participant enrolled in a retirement plan offered on the marketplace to no more than 100 basis points in total annual fees.

Under the bill, DFI must, in cooperation with the Department of Revenue, the Department of Workforce Development, and other state agencies, develop a marketing program to publicize and promote the marketplace to small employers and eligible individuals.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.144 (1) (c) of the statutes is created to read:

2 20.144 (1) (c) *Retirement plan marketplace; operations.* A sum sufficient for
3 establishing, managing, and marketing the retirement plan marketplace under s.
4 224.56.

5 **SECTION 2.** 20.144 (1) (cd) of the statutes is created to read:

6 20.144 (1) (cd) *Retirement plan marketplace; vendor development contract.* A
7 sum sufficient to pay the costs of a contract to develop the retirement plan
8 marketplace website under s. 224.56 (2) (b).

9 **SECTION 3.** 20.144 (1) (g) of the statutes is amended to read:

10 20.144 (1) (g) *General program operations.* The amounts in the schedule for
11 the general program operations of the department of financial institutions. Except
12 as provided in pars. (a), to (cd), (h), (i), (j), and (u) and sub. (3), all moneys received
13 by the department, other than by the office of credit unions and the division of
14 banking, and 88 percent of all moneys received by the office of credit unions and the
15 department's division of banking shall be credited to this appropriation, but any
16 balance at the close of a fiscal year under this appropriation shall lapse to the general

ASSEMBLY BILL 1138

1 fund. Annually, \$150,000 of the amounts received under this appropriation account
2 shall be transferred to the appropriation account under s. 20.575 (1) (g).

3 **SECTION 4.** 224.56 of the statutes is created to read:

4 **224.56 Retirement plan marketplace. (1) DEFINITIONS.** In this section:

5 (a) “Eligible employer” means an employer that has fewer than 100 employees
6 and that has at least one employee who is a resident of this state. “Eligible employer”
7 does not include the state, its political subdivisions, or any office, department,
8 independent agency, authority, institution, association, society, or other body in state
9 or local government created or authorized to be created by the constitution or any
10 law, including the courts and the legislature.

11 (b) “Eligible individual” means an individual who is a resident of this state.

12 (c) “Enrollee” means an eligible individual who is enrolled in a retirement plan
13 offered on the marketplace.

14 (d) “Financial services firm” means a nongovernmental person that is licensed
15 by or holding a certificate of authority and in good standing issued by the department
16 or the office of the commissioner of insurance and that is an administrator, as defined
17 in 29 USC 1002 (16).

18 (e) “Marketplace” means the retirement plan marketplace established under
19 sub. (2) (a).

20 (f) “Participating employer” means an eligible employer that elects to
21 participate in the marketplace by entering into an agreement with one or more
22 financial services firms to offer the eligible employer’s employees who are residents
23 of this state the opportunity to participate in a retirement plan available on the
24 marketplace.

ASSEMBLY BILL 1138**SECTION 4**

1 **(2) ESTABLISHMENT OF MARKETPLACE.** (a) The department shall establish and
2 manage a retirement plan marketplace that meets the requirements under this
3 section to do all of the following:

4 1. Connect eligible employers and eligible individuals with retirement plans
5 offered by financial services firms.

6 2. Improve access to retirement income options for eligible individuals.

7 3. Encourage eligible individuals to plan for retirement and increase
8 retirement savings.

9 4. Remove barriers to entry for eligible employers to offer retirement plan
10 options to employees who are residents of this state by educating eligible employers
11 on the retirement plans that are available and by promoting qualified, low cost, and
12 low administrative burden retirement plan options.

13 (b) The department shall enter into a contract with a vendor to create a website
14 to host the marketplace. Sections 16.705 and 16.75 do not apply to a contract entered
15 into under this section.

16 (c) The department shall consult with the department of employee trust funds
17 and the investment board in designing and managing the marketplace.

18 **(3) PARTICIPATING FINANCIAL SERVICES FIRMS; AUTHORIZED RETIREMENT PLANS.** (a)
19 A financial services firm may apply to the department to offer retirement plans to
20 eligible employers and eligible individuals on the marketplace. The department may
21 approve the financial services firm to participate in the marketplace if the financial
22 services firm offers high quality retirement plans that are subject to and comply with
23 the federal Employee Retirement Income Security Act of 1974, 29 USC 1001 to 1461.

24 (b) If the department approves a financial services firm's application under par.
25 (a), the department shall specify the retirement plans the financial services firm is

ASSEMBLY BILL 1138

1 authorized to offer on the marketplace. The department may authorize only
2 retirement plans that are subject to and comply with the federal Employee
3 Retirement Income Security Act of 1974, 29 USC 1001 to 1461, and that the
4 department determines charge reasonable fees to participating employers and
5 enrollees.

6 (c) In approving financial services firms to participate in the marketplace, the
7 department shall ensure that the marketplace offers eligible employers and eligible
8 individuals a range of retirement plans and investment options that meet the needs
9 of investors with various levels of risk tolerance and of various ages, including
10 retirements plans that allow participating employers to contribute to employee
11 accounts and retirement plans that allow employee payroll deductions, and shall
12 ensure that the marketplace offers retirement plans that are environmentally
13 friendly and socially responsible.

14 (d) A financial services firm that participates in the marketplace may not
15 charge a participating employer or enrollee an administrative fee that is more than
16 100 basis points in total annual fees. If the financial services firm requests, the
17 department may authorize the financial services firm to charge enrollees nominal
18 fees for new or small balance accounts. The financial services firm shall provide
19 participating employers and enrollees information about the applicable retirement
20 plan's historical investment performance.

21 **(4) MARKETING.** (a) The department shall develop a marketing program to
22 publicize and promote the marketplace. The department shall cooperate with other
23 state agencies, including the department of revenue and the department of
24 workforce development, in marketing and providing outreach services to eligible
25 employers and eligible individuals.

