



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0914/P4  
ARG:emw&amn

DOA:.....Bork, BB0308 - Retirement Program

**FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*  
**COMMERCE AND ECONOMIC DEVELOPMENT**  
**COMMERCE**

***Small Business Retirement Savings Board; retirement savings program***

This bill creates a Small Business Retirement Savings Board (board) attached to DFI and requires the board to establish and oversee a small business retirement savings program for certain privately employed individuals who are not eligible for an employer-sponsored retirement plan. The board must contract with a vendor (investment administrator) to provide specified services in administering the program, including investment services and record-keeping services.

Under the bill, the board consists of the following nine members: the state treasurer or his or her designee; the secretary of financial institutions or his or her designee; two members appointed by the governor; two members appointed, respectively, by the speaker of the assembly and president of the senate; one member appointed by the state treasurer; one member appointed by the State of Wisconsin Investment Board; and one member appointed by the other members. The bill requires certain members to possess specified attributes or experience, and all members except the state treasurer and secretary of financial institutions, or their designees, serve four-year terms.

Under the bill, the board must design the program to meet certain requirements. Among these, the program must allow eligible employees to

contribute to their accounts through payroll deductions and require participating employers to withhold from employees' wages, through payroll deductions, employees' account contributions and remit those contributions directly to the investment administrator. A "participating employer" is a private employer that does not offer a retirement savings plan to all employees; has at least one employee who is a resident of this state; provides notice to the board of its election to participate in the program; and certifies that, on the date of this notice, it had 50 or fewer employees. An "eligible employee" is an individual who resides in this state and who is employed by a private employer that does not offer a retirement savings plan in which the individual may participate. The bill defines "account" as a retirement savings account established for an eligible employee under the program. Other requirements of the program are that the administrative costs must be low and the fee that the investment administrator may charge an eligible employee is limited to a fixed monthly fee in an amount approved by the board. The program must also allow an eligible employee who has established an account to continue the account after separating from employment with a participating employer if the account is maintained with a positive balance.

Under the bill, after electing to participate in the program, a participating employer must provide notice to each of its eligible employees of the eligible employee's right to opt out of the program. Unless the eligible employee opts out, the participating employer must enroll the eligible employee in the program and begin making payroll deductions, which amounts are remitted to the investment administrator as account contributions of the employee. Unless a different account type is offered and the employee selects another option, these contributions are made to a Roth IRA for the employee. Unless the employee directs otherwise, during the employee's first year of enrollment in the program, the participating employer must make a payroll deduction each pay period at a rate of 5 percent of the employee's gross wages, with this rate increasing by 1 percent per year until a maximum rate of 10 percent is reached. Under the program, the eligible employee must have certain investment options within each account type, including a stable value or capital preservation fund and a target date index fund or age-based fund. An eligible employee's first \$1,000 of contributions must be deposited in a stable value or capital preservation fund, and thereafter, unless the employee selects a different investment option, the employee's contributions must be deposited in a target date index fund or age-based fund.

The bill specifies that, in establishing the program, the board may create or impose any requirement or condition not inconsistent with the bill's requirements that the board considers necessary for the effective functioning and widespread utilization of the program. The bill also authorizes the board to enter into contracts for services necessary for establishing and overseeing the program, including services of financial institutions, attorneys, investment advisers, accountants, consultants, and other professionals. The board may promulgate rules related to the program. DFI must provide the board with assistance necessary for the program, including staff, equipment, and office space. The board may delegate to DFI

responsibility for carrying out any day-to-day board function related to the program.

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

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

**SECTION 1.** 15.185 (4) of the statutes is created to read:

15.185 (4) SMALL BUSINESS RETIREMENT SAVINGS BOARD. (a) There is created a small business retirement savings board that is attached to the department of financial institutions under s. 15.03. The board shall consist of the following members:

1. The state treasurer or his or her designee.
2. The secretary of financial institutions or his or her designee.
3. One member who has a favorable reputation for skill, knowledge, and experience in the field of retirement saving and investments, appointed by the governor.
4. One member who has a favorable reputation for skill, knowledge, and experience relating to small business, appointed by the governor.
5. One member who is a representative of an association representing employees or who has a favorable reputation for skill, knowledge, and experience in the interests of employees in retirement saving, appointed by the speaker of the assembly.
6. One member who has a favorable reputation for skill, knowledge, and experience in the interests of employers in retirement saving, appointed by the president of the senate.

7. One member who has a favorable reputation for skill, knowledge, and experience in retirement investment products or retirement plan designs, appointed by the state treasurer.

8. One member appointed by the investment board.

9. One member appointed, notwithstanding s. 15.07 (4), by a majority vote of all of the members identified in subs. 1. to 8.

(b) The members under par. (a) 3. to 9. shall be appointed for 4-year terms.

**SECTION 2.** 16.705 (1b) (d) of the statutes is amended to read:

16.705 **(1b)** (d) The department of financial institutions under s. 224.51 or the small business retirement savings board under s. 224.56.

**SECTION 3.** 16.71 (5r) of the statutes is amended to read:

16.71 **(5r)** The department shall delegate authority to the department of financial institutions to enter into vendor contracts under s. 224.51 and to the small business retirement savings board to enter into vendor contracts under s. 224.56.

**SECTION 4.** 20.144 (1) (g) of the statutes is amended to read:

20.144 **(1)** (g) *General program operations.* The amounts in the schedule for the general program operations of the department of financial institutions. Except as provided in pars. (a), (h), (i), (j), and (u) and ~~sub.~~ subs. (3) and (4), all moneys received by the department, other than by the office of credit unions and the division of banking, and 88 percent of all moneys received by the office of credit unions and the department's division of banking shall be credited to this appropriation, but any balance at the close of a fiscal year under this appropriation shall lapse to the general fund. Annually, ~~\$150,000~~ \$190,000 of the amounts received under this appropriation account shall be transferred to the appropriation account under s. 20.575 (1) (g).

\*\*\*NOTE: This is reconciled s. 20.144 (1) (g). This SECTION has been affected by drafts with the following LRB numbers: LRB-0914/P3 and LRB-0179/P1.

**SECTION 5.** 20.144 (4) (title) of the statutes is created to read:

20.144 (4) (title) SMALL BUSINESS RETIREMENT SAVINGS PROGRAM.

**SECTION 6.** 20.144 (4) (a) of the statutes is created to read:

20.144 (4) (a) *General program operations.* The amounts in the schedule for the small business retirement savings program under s. 224.56.

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

**SECTION 7.** 20.144 (4) (g) of the statutes is created to read:

20.144 (4) (g) *Program operations; other funds.* All moneys received for the small business retirement savings program under s. 224.56, for the purposes for which received.

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

**SECTION 8.** 224.56 of the statutes is created to read:

**224.56 Small business retirement savings program. (1) DEFINITIONS.** In this section:

(a) “Account” means a retirement savings account established for an eligible employee under the program under this section.

(b) “Board” means the small business retirement savings board.

(c) “Eligible employee” means an individual who resides in this state and who is any of the following:

1. Employed by a private employer that does not offer a retirement savings plan.

2. Employed by a private employer and not eligible to participate in a retirement savings plan offered by the private employer.

(d) “Investment administrator” means the vendor with which the board has contracted under sub. (2) (b).

(e) “Participating employer” means a private employer that qualifies for and has elected to participate in the program as provided in sub. (4) (a).

(f) “Roth IRA” has the meaning given in [26 USC 408A](#) (b).

**(2) ESTABLISHMENT OF PROGRAM.** (a) Subject to par. (b), the board shall establish and oversee a small business retirement savings program that meets the requirements specified in this section.

(b) After soliciting competitive sealed proposals under s. 16.75 (2m), the board shall select and contract with a vendor to provide the following services in administering the small business retirement savings program:

1. Investment services.
2. Accounting and record-keeping services.
3. Any other professional services considered necessary by the board.

**(3) GENERAL PROGRAM REQUIREMENTS.** The board shall design the program under this section so that it meets all of the following requirements:

(a) The program allows eligible employees to contribute to their accounts through payroll deductions and requires participating employers to withhold from employees’ wages, through payroll deductions, employees’ account contributions and remit those contributions directly to the investment administrator.

(b) Subject to the record-keeping requirement under sub. (6) (b), the program allows the investment administrator to pool accounts for investment purposes and designates the investment administrator as the trustee of account contributions and earnings.

(c) The administrative costs of the program are low, and the fee that the investment administrator may charge an eligible employee is limited to a fixed monthly fee in an amount approved by the board.

(d) The program does not require an eligible employee to maintain a minimum account balance if the employee makes contributions to the account each pay period.

(e) The program allows account consolidation and roll over, including roll over to a retirement savings option not part of the program to the extent allowed under the Internal Revenue Code.

(f) The program allows an eligible employee who has established an account to continue the account after separating from employment with a participating employer if the account is maintained with a positive balance.

**(4) PARTICIPATING EMPLOYERS; ELIGIBLE EMPLOYEES.** (a) A private employer may participate in the program under this section if all of the following apply:

1. The employer does not offer a retirement savings plan to all employees.
2. The employer provides notice to the board, in the form and manner prescribed by the board, of the employer's election to participate in the program and the employer certifies that, on the date of this notice, the employer had 50 or fewer employees.
3. The employer has at least one employee who is a resident of this state.

(b) After a private employer has elected under par. (a) to participate in the program, the employer shall provide notice to each of its eligible employees of the eligible employee's right to decline participation in the program. After providing this notice, the employer shall enroll the eligible employee in the program unless the eligible employee informs the employer of the eligible employee's decision not to participate in the program.

(5) SPECIFIC PROGRAM REQUIREMENTS. (a) 1. Except as provided in subd. 2., the program under this section shall provide for an eligible employee who has enrolled in the program to make contributions to a Roth IRA account.

2. The program may also offer options for account types other than a Roth IRA, and if other options are offered, the program shall allow an enrolled eligible employee to select any of these other account types for investing contributions under the program.

(b) 1. The program under this section shall provide an eligible employee who has enrolled in the program with at least 5 investment options within each account type, including all of the following investment options:

a. A stable value or capital preservation fund.

b. A target date index fund or age-based fund that automatically rebalances asset allocations based on the eligible employee's age.

c. A low-cost fund focused on income generation.

d. A low-cost fund focused on asset growth.

e. A low-cost fund focused on balancing risk and return.

2. The program under this section shall require the investment administrator to offer to each enrolled eligible employee, before the employee makes his or her investment selections, a tool allowing the employee to identify the employee's risk tolerance and projected retirement date as an aid to the employee in selecting suitable investments under the program.

3. The program under this section shall require that the first \$1,000 of an enrolled eligible employee's contributions be deposited in a fund described in subd.

1. a. and thereafter, unless the employee selects a different investment option, the employee's contributions be deposited in a fund described in subd. 1. b.



(c) 1. Except as provided in subd. 3., during an eligible employee's first year of enrollment in the program, the participating employer's payroll deduction each pay period shall be at a rate of 5 percent of the employee's gross wages, and this deducted amount shall be remitted to the investment administrator as the employee's account contribution.

2. Except as provided in subd. 3., a participating employer shall increase the payroll deduction rate under subd. 1. by 1 percent per year until a maximum payroll deduction rate of 10 percent is reached.

3. An enrolled eligible employee may elect a different payroll deduction rate than that provided for in subds. 1. and 2., except the rate may not be less than 1 percent nor more than 10 percent.

**(6) RECORD-KEEPING REQUIREMENTS.** (a) Subject to par. (b), the board shall establish the record-keeping requirements for the investment administrator, including the nature and extent of the record-keeping services and performance metrics for measuring compliance with these requirements.

(b) The program shall require the maintenance of separate records and accounting for each account.

**(7) ABANDONED ACCOUNTS.** (a) An account is considered abandoned if any of the following applies:

1. There has been no account activity for at least 6 months and the account balance is less than \$250.

2. There has been no account activity for at least 2 years.

(b) If an account is considered abandoned under par. (a), the investment administrator shall close the account and disburse the account balance to the individual who established the account.

**(8) POWERS OF BOARD; DEPARTMENTAL ASSISTANCE; RULES.** (a) The board may do any of the following:

1. In establishing the program under this section, create or impose any requirement or condition not inconsistent with this section that the board considers necessary for the effective functioning and widespread utilization of the program.

2. Enter into contracts or other arrangements for any services necessary for establishing and overseeing the program under this section or for otherwise carrying out the purposes of this section, including the services of financial institutions, attorneys, investment advisers, accountants, consultants, and other professionals.

3. Exercise any other powers necessary to establish and oversee the program under this section or otherwise carry out the purposes of this section.

4. Promulgate rules to carry out the purposes of this section.

(b) The department shall provide the board with any assistance necessary to carry out the purposes of this section, including staff, equipment, and office space. The board may delegate to the department responsibility for carrying out any day-to-day board function related to the program under this section.

**SECTION 9116. Nonstatutory provisions; Financial Institutions.**

(1) SMALL BUSINESS RETIREMENT SAVINGS BOARD; STAGGERED TERMS. Notwithstanding the length of terms specified for the members of the small business retirement savings board under s. 15.185 (4) (b), the members appointed under s. 15.185 (4) (a) 3., 4., 6., and 8. shall be appointed for initial terms expiring on May 1, 2023.

(END)