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How States Are Working to Address the Retirement Savings Challenge: Three Approaches

Overview

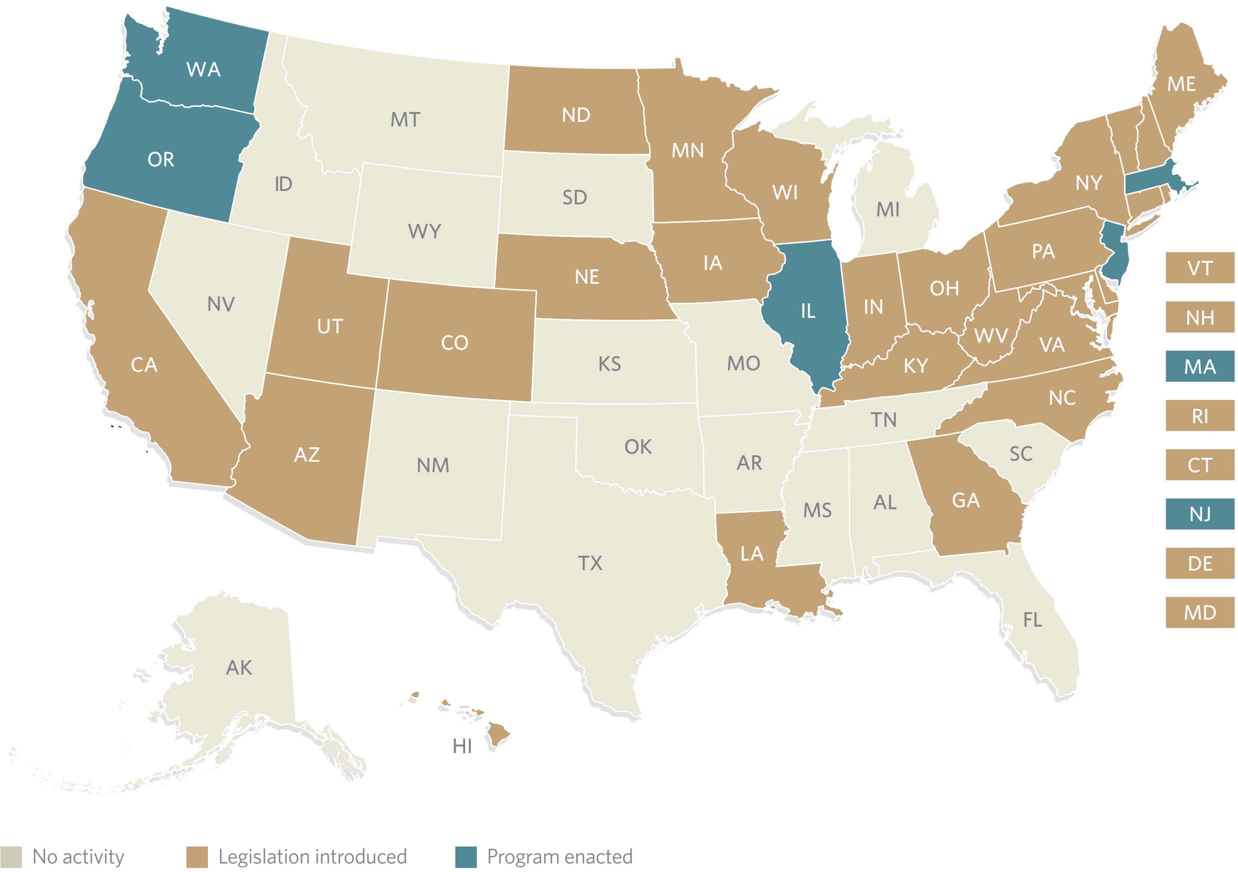
Most Americans are not saving enough to pay for their retirement. The ability of employees to contribute directly from their paychecks and the use of features such as automatic enrollment make the workplace an effective place to encourage saving. These employer-sponsored plans have become the primary vehicle for accumulating the vast majority of private retirement funds. However, most workers do not participate in a retirement savings plan through their employer, and less than 10 percent of all workers contribute to a plan outside of work. The failure to save enough—or save at all—has an impact on workers later in life and on all taxpayers.

Since 2012, half of the states have introduced legislation to study or establish state-sponsored retirement savings programs for workers at private sector or nonprofit employers without plans. This fact sheet, one of a series, summarizes The Pew Charitable Trusts' analysis of current approaches in the states.

Figure 1

Many States Look to Boost Retirement Savings Among Private Sector Workers

Bills introduced in more than half of states since 2012



Source: Pew analysis of state legislation filed between 2012 and April 2016

Three policy approaches

States generally have taken one of three approaches to bolstering retirement savings by private sector workers. Each approach reflects a major structural choice for policymakers. A state can create a state-based program that is not governed under the structure of the Employee Retirement Income Security Act (ERISA), the federal law that governs pensions; it can sponsor and administer a plan that is subject to ERISA; or it can work within the current voluntary employer-based system without sponsoring a state plan.

Option 1: Non-ERISA state plan—auto-IRA (Secure Choice)

In general, ERISA provides important protections for plan participants and their beneficiaries. It requires that participants receive information, including facts about plan features and funding; sets minimum standards for participation and vesting; imposes fiduciary responsibilities that require sponsors and providers who have control over plan assets to act in participants' best interests; and gives participants the right to sue for benefits and breaches of fiduciary duty. However, most legislation on state-sponsored retirement plans for the private sector is being designed to avoid ERISA.

Some legislators fear that ERISA would require the state, the plan, or participating employers to take on too many responsibilities or be subjected to unwanted liability. Many employers who do not offer retirement plans cite concerns about the costs, legal and administrative burdens, and potential liabilities of doing so under ERISA. States pursuing this approach are attempting to balance these concerns and also require protections similar to those offered under ERISA.

For a state plan to avoid falling under ERISA, the employer's role must be minimal. The federal Department of Labor provides legal guidance to employers describing the specific arrangements needed to keep a plan from falling under ERISA as well as the tasks an employer can perform without converting the arrangement to an ERISA-covered plan.

Such a plan would require all employers meeting certain criteria to either offer a retirement plan for their workers or enroll the workers in the state's automatic enrollment payroll deduction IRA (auto IRA) plan. For example, the Secure Choice program soon to take effect in Illinois will cover employers with 25 or more employees that do not have plans. Connecticut, Oregon, and Maryland also have enacted similar programs.

In these state auto-IRA plans, employers must process their workers' enrollment and payroll contributions but otherwise have minimal involvement. Employees automatically enrolled in the programs start with contributions at a specified amount of pay, though they can adjust their contributions or opt out altogether.

Option 2: State-sponsored ERISA plan—prototype plan, multiple employer plan

Recent guidance from the U.S. Department of Labor made clear that states can operate ERISA-governed plans that cover many nongovernment employers. These can be either prototype plans or multiple employer plans (MEPs). With a prototype plan, a state would offer a standard 401(k) or other retirement plan to employers, who would choose among options, such as required employee contribution rates, according to their needs. MEPs provide a single plan that covers a group of unrelated employers. Prototype plans and MEPs can both achieve efficiencies and economies of scale that help reduce costs.

Under a prototype plan, individual employers would assume the same fiduciary obligations associated with sponsorship of any ERISA-covered plan, but a state or a designated third party would assume responsibility for most administrative and asset management functions.

Under MEPs, a state would be the fiduciary, operate the plan, communicate with employees, select service providers, pay benefits, and perform other services.

Massachusetts is implementing a prototype plan for small nonprofit organizations. Each participating employer maintains an ERISA-covered defined contribution plan that is made more affordable because the state treasurer administers contributions and investments.

Option 3: Encourage voluntary employer-based system—marketplace

States can encourage—but not require—business owners to adopt existing private sector retirement plans. Many business owners and executives may not be familiar with available retirement programs, and plan providers say it's often difficult to reach small businesses with product offerings. To help, New Jersey and Washington state have enacted marketplace exchanges. A marketplace might be preferable in states where policymakers have concerns about requiring participation by employers and employees.

States can create websites where financial service providers can market retirement plans. States can set criteria for providers, who can present their plans in formats that allow for easy comparison shopping. Employers could receive tax breaks or other incentives to adopt a plan, and employees could receive similar incentives to participate.

The full analysis

Pew's full analysis of state legislation regarding private sector retirement savings can be found in *How States Are Working to Address the Retirement Savings Challenge: An Analysis of State-Sponsored Initiatives to Help Private Sector Workers Save.* The report analyzed efforts underway or under consideration in 25 states. It found that the states' objectives are consistent: Increase retirement savings and reduce poverty among retirees to avoid social assistance spending that strains state budgets, ensure that reforms are implemented successfully, impose minimal burdens on employers, build cost-effective and sustainable programs, and protect employee retirement savings.

Given the range of possible approaches, policymakers will have to identify and set priorities that balance competing risks and trade-offs. The report discusses the three approaches in more detail and highlights the implications of competing policy goals. It's essential that states balance these objectives, taking into consideration the specific economic and demographic characteristics of the workers who could participate in these plans. With careful decision-making, states can significantly improve the retirement security of many working Americans while minimizing costs to taxpayers.

For further information, please visit:

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