

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

‘**Sec. 1. 5 MRSA c. 7-A** is enacted to read:

## **CHAPTER 7-A**

### **MAINE SMALL BUSINESS RETIREMENT MARKETPLACE**

#### **§ 171. Short title**

This Act may be known and cited as "the Maine Small Business Retirement Marketplace Act."

#### **§ 172. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Approved plan.** "Approved plan" means a retirement plan offered by a private sector financial services firm that meets the requirements of this chapter to participate in the marketplace.

**2. Balanced fund.** "Balanced fund" means a mutual fund that has an investment mandate to balance its portfolio holdings. The fund may include a mix of stocks and bonds in varying proportions according to the fund's investment outlook.

**3. Eligible employer.** "Eligible employer" means a self-employed individual, a sole proprietor or an employer with fewer than 100 qualified employees at the time of enrollment.

**4. Enrollee.** "Enrollee" means an employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the marketplace.

**5. Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, or any successor law, in effect for the calendar year.

**6. Marketplace.** "Marketplace" means the Maine Small Business Retirement Marketplace established under section 173.

**7. myRA.** "myRA" means the myRA retirement program administered by the United States Department of the Treasury. "myRA" is a Roth individual retirement account under Section 408A of the Internal Revenue Code.

**8. Participating employer.** "Participating employer" means an eligible employer with employees enrolled in an approved plan offered through the marketplace who chooses to participate in the marketplace and offers approved plans to employees for voluntary enrollment.

**9. Payroll deduction retirement savings arrangement.** "Payroll deduction retirement savings arrangement" means an arrangement by which a participating employer allows enrollees to remit payroll deduction contributions to an approved plan.

**10. Private sector financial services firm.** "Private sector financial services firm" or "financial services firm" means a person or entity that:

A. Is licensed, chartered or holds a certificate of authority by the appropriate regulatory agency within the Department of Professional and Financial Regulation or by an appropriate federal regulatory agency; and

B. Meets all federal laws and regulations to offer retirement plans.

**11. Qualified employee.** "Qualified employee" means an employee who is defined by the federal Internal Revenue Service as eligible to participate in a qualified plan pursuant to the Internal Revenue Code.

**12. Target date fund or other similar fund.** "Target date fund or other similar fund" means a hybrid mutual fund that automatically resets the asset mix of stocks, bonds and cash equivalents in its portfolio according to a selected time frame that is appropriate for a particular investor so as to address a projected retirement date.

**13. Treasurer.** "Treasurer" means the Treasurer of State.

### **§ 173. Maine Small Business Retirement Marketplace established**

The Maine Small Business Retirement Marketplace is established to connect eligible employers and their employees with approved retirement plans for the purpose of promoting greater retirement savings for private-sector employees in a convenient, low-cost and portable manner. The marketplace must offer approved plans beginning January 1, 2019 in accordance with the requirements of this chapter.

**1. Plan for operation.** The treasurer shall design a plan for the operation of the marketplace. The treasurer shall consult with relevant state, quasi-government, public, private and nonprofit agencies and organizations in designing and managing the marketplace.

**2. Contracted services.** As necessary for the implementation and oversight of the marketplace, the treasurer shall contract with a 3rd-party consultant to do the following:

A. Establish a protocol for reviewing and approving the qualifications of all private-sector financial services firms that meet the qualifications to participate in the marketplace. The protocol must include objective criteria and may not provide for any unfair advantage to the 3rd-party consultant that establishes the protocol;

B. Design and operate a publicly accessible website that includes information about how eligible employers can voluntarily participate in the marketplace;

C. Develop marketing materials about the marketplace that can be distributed electronically, posted on publicly accessible websites of any state agency that interacts with eligible employers or inserted into mail distributed by relevant firms or state agencies;

D. Ensure that financial services firms that participate in the marketplace allow a licensed professional who assists an eligible employer or an employee to enroll in a plan offered through the marketplace to receive routine, market-based commissions or other compensation for services;

E. Identify and promote existing federal and state tax credits and benefits for employers and employees that encourage retirement savings or participation in retirement plans; and

F. Promote the benefits of retirement savings and distribute information that promotes financial literacy.

**3. Participation of financial services firms.** The treasurer shall encourage the participation of private sector financial services firms in the marketplace and approve for participation in the marketplace all private sector financial services firms that meet the requirements of this subsection and other requirements of this chapter.

A. The treasurer shall confirm that the private sector financial services firm and any retirement plan offered by that financial services firm in the marketplace meets the requirements of this chapter and any relevant federal laws and regulations.

B. In order for the marketplace to operate, there must be at least 2 financial services firms offering approved plans. This paragraph may not be construed to limit the number of private sector financial services firms with approved plans from participating in the marketplace.

C. A financial services firm participating in the marketplace shall offer a minimum of 2 investment options for an approved plan:

(1) A target date fund or other similar fund, with asset allocations and maturities designed to coincide with an enrollee's expected date of retirement; and

(2) A balanced fund.

D. A financial services firm participating in the marketplace may not charge the participating employer an administrative fee and may not charge enrollees more than 100 basis points in total annual administrative fees. A financial services firm shall provide information about the historical investment performance of the financial services firm's product.

**4. Minimum plan options in marketplace.** The treasurer shall approve a variety of retirement plans to meet the needs of investors with various levels of risk tolerance and various ages in accordance with this subsection.

A. At a minimum, the following types of retirement plans must be available to employers on a voluntary basis from the marketplace:

(1) A retirement plan that provides for employer contributions to participating enrollee accounts;

(2) A payroll deduction individual retirement savings arrangement open to all employees, to which the employer does not contribute;

(3) A myRA plan; and

(4) A life insurance plan that is designed for retirement purposes.

B. In order to be approved, a retirement plan must meet federal law and Internal Revenue Service regulations for qualified retirement plans. The treasurer may remove an approved plan that no longer meets the requirements of this chapter. At least annually, the treasurer shall review plans offered through the marketplace to confirm that the plans comply with the requirements of this chapter, except for those requirements that pertain to federal laws and regulations.

**5. Rollover contributions.** An approved plan must include the option for an enrollee to roll any contributions made on a pretax basis into a different individual retirement account or another eligible retirement plan after ceasing participation in a plan approved by the marketplace. The treasurer through rulemaking shall address how rollover contributions are handled for eligible employers that have employees in other states and whether out-of-state employees with existing individual retirement accounts may roll them into any approved plan offered through the marketplace.

**6. Voluntary participation; automatic enrollment.** Participation in the marketplace is voluntary for both eligible employers and qualified employees. An employer that chooses to participate in the marketplace may select an approved payroll deduction retirement savings arrangement that provides for automatic enrollment of qualified employees if employees have the right to opt out.

**7. Not an entitlement.** A person is not guaranteed enrollment in any approved plan offered through the marketplace.

**8. Funds.** In addition to any appropriated funds, the treasurer may use private funding sources, including private foundation grants, to pay for marketplace expenses. On behalf of the marketplace, the treasurer may seek federal and private grants and may accept any funds awarded to the treasurer for use in the marketplace. If funds are available, the treasurer may provide an incentive payment to participating employers that enroll in the marketplace.

**9. No liability to State.** The treasurer may not expose the State as an employer or through administration of the marketplace to any potential liability under the federal Employee Retirement Income Security Act of 1974. The treasurer may not offer and operate a state-based retirement plan for an employer or individual who is not employed by the State.

**10. Biennial report.** Beginning January 1, 2021 and every 2 years thereafter, the treasurer shall report on the effectiveness and efficiency of the marketplace, including the levels of enrollment and the retirement savings levels of participating enrollees that are obtained in aggregate on a voluntary basis from private sector financial services firms that participate in the marketplace. The treasurer shall submit the written report to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters.

**11. Rules.** The treasurer shall adopt rules to implement this chapter to allow the marketplace to begin offering approved plans to eligible employers beginning January 1, 2019. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A. Prior to adopting rules, the treasurer shall consult with organizations representing eligible employers, qualified employees, private and nonprofit sector retirement plan administrators and providers, organizations representing private sector financial services firms, private and nonprofit organizations engaged in promoting financial literacy and engaged in assisting small businesses and any other individuals or entities to assist in developing an effective and efficient method for operating the marketplace.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**TREASURER OF STATE, OFFICE OF**

**Administration - Treasury 0022**

Initiative: Provides funding for one Public Service Coordinator I position, consulting fees, web development costs and associated administration fees to design, implement and oversee the Maine Small Business Retirement Marketplace.

<b>GENERAL FUND</b>	<b>2015-16</b>	<b>2016-17</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$85,300
All Other	\$0	\$98,600
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$183,900</b>

**SUMMARY**

This amendment is the minority report of the committee and replaces the bill. As in the bill, the amendment establishes the Maine Small Business Retirement Marketplace. The amendment provides

employers of fewer than 100 employees an opportunity to offer retirement plans that are approved by the marketplace to their employees on a voluntary basis. The amendment also allows sole proprietors and self-employed individuals to voluntarily participate in the marketplace. The amendment requires that the marketplace provide at least 2 types of retirement plans to eligible employers, an individual retirement account plan that allows an employer to make contributions to participating employees' accounts and a payroll deposit retirement savings arrangement in which an employer does not contribute to an employee's account, and a minimum of 2 plans available to individual employees, a myRA and a life insurance plan. The amendment requires the Treasurer of State to administer and oversee the marketplace. The amendment adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**  
**(See attached)**