

MEMO# 33150

March 3, 2021

Virginia General Assembly Approves Legislation to Create State-Run Auto-IRA for Private-Sector Workers; ICI Sends Letter Detailing Risks

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March 3, 2021 TO: ICI Members
Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: Virginia General Assembly Approves Legislation to Create State-Run Auto-IRA for Private-Sector Workers; ICI Sends Letter Detailing Risks

Late last week, the Virginia General Assembly approved the conference report to HB 2174, a bill to create a state-run auto-IRA program for private-sector workers in Virginia without access to a workplace retirement plan.[\[1\]](#) The bill now awaits action by Virginia Governor Ralph Northam, and indications at present are that he is expected to sign.

The conference agreement directs the board of the Virginia 529 plan to establish and administer the program, to be known as VirginiaSaves. The program would be similar to auto-IRA programs established by other states, such as California, Illinois and Oregon.[\[2\]](#) Our understanding of the conference agreement is that participation would be mandatory for employers that (1) do not offer employees either a qualified retirement plan or an automatic-enrollment payroll deduction IRA, (2) have 25 or more eligible employees, and (3) have been in operation for at least two years. Eligible employees, defined as workers at least 18 years of age and working at least 30 hours per week,[\[3\]](#) would be automatically enrolled, but may opt out of the program or change their contribution rate. The bill provides that the program must begin operation on July 1, 2023, or as soon as practicable thereafter.

ICI Letter Detailing Risks

Prior to final passage of HB 2174, ICI sent the attached letter to leaders of the Virginia Senate expressing concerns over the bill and detailing various financial and legal risks associated with establishing a state-run auto-IRA program. The letter explains that ICI understands and appreciates the interest shown by Virginia in ensuring that its residents have sufficient resources for retirement and that we share the goal of increasing workplace retirement plan access. With that shared goal in mind, the letter intends to help the General Assembly make an informed, sound assessment of the costs and risks involved in

setting up an auto-IRA program.

The letter explains the likely high start-up costs and ongoing administrative costs of such programs, including evidence from other states that have already implemented similar programs. We also noted several open legal issues, particularly relating to the uncertain status of state-run auto-IRA programs under ERISA.

Finally, the letter concludes that there are other more targeted changes at the national level that would be more effective at achieving the goal of increasing access to payroll-deduction savings opportunities.

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[Attachment](#)

endnotes

[1] An enrolled version of HB 2174 is not yet available. We understand that the General Assembly accepted this version of the bill:
<https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+HB2174S1+pdf> with the amendments found here: <https://lis.virginia.gov/cgi-bin/legp604.exe?212+amd+HB2174ASE>.

[2] For a description of the California legislation, see ICI Memorandum No. 30196, dated September 1, 2016. Available at: https://www.ici.org/my_ici/memorandum/memo30196. For a description of the Illinois legislation, see ICI Memorandum No. 28650, dated January 8, 2015. Available at: https://www.ici.org/my_ici/memorandum/memo28650. For a description of the Oregon legislation, see ICI Memorandum No. 29138, dated July 1, 2015. Available at: https://www.ici.org/my_ici/memorandum/memo29138.

[3] This description is based on our understanding of the conference agreement language.