

MEMO# 33898

November 15, 2021

New York Enacts Legislation to Create Mandatory State-Run Auto-IRA for Private-Sector Workers; ICI Sends Letter Detailing Risks

[33898]

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TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: New York Enacts Legislation to Create Mandatory State-Run Auto-IRA for Private-Sector Workers; ICI Sends Letter Detailing Risks

On October 21, 2021, Governor Kathy Hochul signed New York Assembly Bill A3213^[1] which transforms the New York State Secure Choice Savings Program—a voluntary payroll deduction IRA program for private-sector workers in New York enacted in 2018 under A9505^[2]—into a mandatory automatic-enrollment IRA ("auto-IRA") program.

The program is similar to auto-IRA programs established by other states, such as California, Illinois and Oregon.^[3] The mandatory New York program will require participation by employers that have been in business at least two years and that employed at least 10 employees in the state during the previous year, unless the employer already offers a retirement plan. Employees will be automatically enrolled but may opt out of the program or change their contribution rate. It is unclear when the program will become operational.

ICI Letter Detailing Risks

Prior to the Governor signing the legislation, ICI sent the attached letter expressing concerns over the bill and detailing various financial and legal risks associated with establishing a state-run mandatory auto-IRA program. The letter explains that ICI understands and appreciates the interest shown by New York 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 urges the Governor to veto A3213, to allow the state to implement the voluntary program envisioned by A9505 and to consider the need for A3213 in light of the new and innovative solutions coming from recent federal legislation, such as the SECURE Act.

The letter also notes that it is critical to be mindful of imposing new costs and burdens as businesses in New York endeavor to re-open and re-build in the wake of the COVID-19 pandemic. A voluntary approach would be more supportive of New York's economic recovery and allow for testing of the state-run program before moving toward a mandate.

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

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. A federal solution would be significantly more effective for employers and workers than divergent state-by-state approaches.

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endnotes

[1] The text of A3213 is available here:
<https://legislation.nysenate.gov/pdf/bills/2021/A3213A>.

[2] The voluntary program created under A9505 has not yet been implemented.

[3] 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.