



From the Office of
State Representative
Bill Kenemer

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Oregon Business Opposes HB 2960

HB 2960 creates a permanent Board to develop a state-run retirement plan that requires employers to auto-enroll all employees without other retirement coverage. Employees may opt-out, but only *after* the employer has enrolled them in the system. The bill will create unintended costs and consequences for Oregonians – both employers and employees.

No other state has actually implemented such a plan because of these obstacles.

The permanent Board created by HB 2690 has the power to design, “establish, implement and maintain” a defined contribution plan for up to 650,000 Oregonians without further approval of the Legislature.

HB 2960’s broad grant of authority would allow the Board to allocate Oregonians’ retirement savings to a typical pre-tax IRA fund without Legislative approval. Such a choice by the Board would cause the General Fund to lose tax revenue on those dollars.

The plan described in HB 2960 will likely subject the State and private employers to ERISA liability.

Information received by the Oregon Retirement Savings Task Force from the U.S. Department of Labor (DOL) on June 10, 2014, as well as expert legal analysis, indicate that it is reasonable to expect that HB 2960, which requires private-sector employers to auto-enroll their workers in a plan, would subject the State of Oregon and participating employers to ERISA regulation and all the fiduciary liabilities and compliance costs that entails.

The Oregon business community asked the Legislature to consider the –A17 amendments, which would clarify requirements the Board must satisfy before implementation of a retirement savings program. These requirements included:

1. Conducting a feasibility analysis showing that the plan proposed by the Board would be fiscally self-sustaining and not require General Fund subsidies;

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2. Obtaining an opinion from the IRS confirming that savings vehicles in the proposed plan will receive favorable tax treatment;
3. Obtaining an advisory opinion from the U.S. Department of Labor indicating that any plan proposed by the Board will not expose the State of Oregon or participating employers to liabilities and responsibilities under ERISA **before** implementation of the plan; and
4. Requiring the Board to submit the plan to the Legislature for review, fiscal analysis and approval before implementation.

Similar legislation passed in California, Illinois and Connecticut contain these provisions. HB 2960 does not.

Unfortunately, our common sense suggestions in the –A17 amendments have been rejected.

Without these amendments, Oregon's business community cannot support HB 2960.

Oregonian Editorial
"Proposed state retirement plan needs legal certainty"
May 30, 2015

"House Bill 2960, which would create the Oregon Retirement Savings Board and ultimately a new retirement plan for workers who don't have access to one, has all the elements of a classic Oregon legislative mistake.

"It addresses a problem worthy of attention, in this case inadequate retirement savings, especially among those at the lower end of the income ladder. It seeks to put Oregon at the forefront of change. And it ignores legitimate questions that could turn legislators' dream bill into a nightmare..."

June 8, 2015