



GEORGETOWN UNIVERSITY
McCourt School of Public Policy
Center for Retirement Initiatives

Comparison of Retirement Plan Design Features¹, By State: California², Illinois, Oregon, Maryland and Connecticut

June 15, 2016
UPDATE

¹ On November 18, 2015, the U.S. Department of Labor (DOL) published for comment a [proposed rule](#) related to Savings Arrangements Established by States for Non-Governmental Employees proposing a new safe harbor for state IRA retirement savings arrangements that would allow for qualifying state programs to be exempt from ERISA. The state plans in this document are assumed to be plans covered under the proposed rule. DOL is expected to finalize this rulemaking in the fall 2016.

² The California program description is based on its 2012 law; a new bill to authorize the program is pending before the California Legislature. This chart would be updated upon enactment of a new law.

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	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Bill Sponsor	Sen. Kevin de León	Sen. Daniel Biss	Rep. Tobias Read, Rep. Jennifer Williamson and Sen. Lee Beyer	Del. William Frick and Sen. Douglas Peters	Rep. Joe Aresimowicz and Sen. Martin Looney
Bill Number	SB 1234: Chapter 734 (2012)	SB 2758: Public Act 098-1150 (2015) .	HB 2960: Chapter 557 (2015)	HB 1378: Chapter 324 (2016) SB 1007: Chapter 323 (2016)	HB 5591: Public Act 16-29 (2016)
Bill Status	Enacted September 28, 2012	Enacted January 5, 2015, as amended by SB 2420 in 2016 ³	Enacted June 25, 2015	Enacted May 10, 2016	Enacted May 27, 2016
ERISA Applicability⁴	Not subject to ERISA	Not subject to ERISA	Not subject to ERISA	Not subject to ERISA	Not subject to ERISA
Ruling on ERISA Needed Prior to Implementation	Yes	No, but the Board must submit a written request to the U.S. Department of Labor about the applicability of ERISA.	No, but the Board must obtain legal advice on the applicability of ERISA.	No, but the Board must obtain legal advice on the applicability of ERISA.	No, but the Board must adopt written procedures to allow for modifications to the program to prevent it from being subject to ERISA.
Implement if ERISA Applies	No. The Board shall not implement the program if it is determined that the program is an employee benefit plan under the federal Employee Retirement Income Security Act (ERISA).	No. The Board shall not implement the program if it is determined that the program is an employee benefit plan under the federal Employee Retirement Income Security Act (ERISA).	No. The Board shall not establish the plan if it determines that the plan would qualify as an employee benefit plan under the federal Employee Retirement Income Security Act (ERISA) and/or applies to employers.	No. The Board shall take any action necessary to ensure that the Program is not preempted by federal law.	No. The Authority will ensure that the Program meets all criteria for federal tax-deferral or tax-exempt benefits, and to prevent the program from being treated as an employee benefit plan under ERISA.

³ At the time of publication, SB 2420 passed the Illinois legislature on May 11, 2016 and was sent to the Governor for action on June 9, 2016.

⁴ As previously noted, the U.S. DOL issued a [proposed rule](#) on November 18, 2015 establishing a new safe harbor for state IRA retirement savings arrangements allowing qualifying state programs to be exempt from ERISA. These plans are assumed to be covered by this rulemaking and would be exempt from ERISA, although such interpretation may be subject to legal challenge.

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	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Market, Feasibility and/or Legal Analysis Required	Yes. Analyses to determine the necessary conditions for implementation including likely participation rates, contribution levels, and participants' comfort with investment vehicles and risks and if the plan will be self-sustaining. Funding must be provided by nonprofit or private entities or federal funding.	Not required by law; however, Illinois is conducting a market analysis as a part of its pre- implementation planning.	Yes. Analyses are required to determine the feasibility of the plan and to what extent similar plans exist in the market; to obtain legal advice regarding the applicability of ERISA to plan design; and to study aspects of employer and employee participation in the program. Funding available through appropriations to the Board.	Not required by law; however, the Board may conduct market and financial feasibility studies before the program becomes operational.	Yes. The Board shall conduct a study of the interest of participants and potential participants of the Program in investing in a traditional IRA option. The study will include, but is not limited to: the number of participants whose incomes exceed federal limits for contributing to a Roth IRA, and the percentage of current participants that would prefer a tax-deferred savings option. The Board will submit a report not later than January 1, 2019 to the joint standing committee of the General Assembly. The Authority also may study the feasibility of making available through the state or the authority a multiple-employer 401(k) plan or other tax-favored savings vehicle.

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	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Administrative Entity	The California Secure Choice Retirement Investment Board with nine (9) members: Treasurer (serving as chair); Director of Finance; the Controller; an individual with retirement savings and investment expertise appointed by Senate Committee on Rules; an employee representative appointed by Speaker of the Assembly; a small business representative appointed by Governor; and three additional members appointed by the Governor. The Board is appointed and meets regularly.	The Illinois Secure Choice Savings Board. Board with seven (7) members: Treasurer (serving as chair); State Comptroller; Director of the Governor's Office of Management and Budget; two public representatives with expertise in retirement savings plan administration or investment appointed by Governor; a representative of participating employers appointed by Governor; and a representative of enrollees appointed by Governor. The Board is appointed and meets regularly.	The Oregon Retirement Savings Board with seven (7) members: Treasurer (serving as chair); and the Governor shall appoint: a representative of employers; a representative with experience in the field of investments; a representative of an association representing employees; and a public member who is retired. A member of the Senate appointed by the President of the Senate; and a member of the House of Representatives appointed by the Speaker of the House. The Board is appointed and meets regularly.	The Maryland Small Business Retirement Savings Board with eleven (11) members who will elect a chair from among the members: The State Treasurer, or the Treasurer's Designee; the Secretary of Labor, Licensing and Regulation, or the Secretary's Designee; 9 members with expertise in retirement programs - 3 appointed by the Governor, 3 appointed by the President of the Senate, and 3 appointed by the Speaker of the House of Delegates.	The Connecticut Retirement Security Authority Board with fifteen (15) members and the chair to be selected by the Governor from among the members: Treasurer; Comptroller; Secretary of the Office of Policy and Management; Banking Commissioner; and Labor Commissioner all serving as ex officio voting members; one appointed by the speaker of the House of Representatives; one appointed by the Majority leader of the House of Representatives; one appointed by the Minority leader of the House of Representatives; one appointed by the president pro tempore of the Senate; one appointed by the Majority leader of the Senate; one appointed by the Minority leader of the Senate; and four appointed by the Governor. All appointments shall be made not later than January 1, 2017.

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	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Board Compensated	No	No	Yes	No	No
Employer Participation	Mandatory. Employers retain the option at all times to set up any type of employer sponsored plan instead of the state arrangement.	Mandatory, with 2-year delay for new businesses. Employers retain the option of providing a plan available on the open market.	Mandatory. Employers can establish alternative retirement plans for some or all of its employees.	Mandatory for all employers that pay employees through a payroll system or service. There is a 2-year deferral for new businesses. Employers retain the option of providing a plan available on the open market.	Mandatory. Employers retain the option of providing a plan available on the open market.
Employers Affected	5 or more employees	25 or more employees and has not offered a qualifying retirement plan in the preceding 2 years.	Employers that do not currently offer plans.	All qualifying employers that do not currently offer plans.	5 or more employees and do not currently offer a plan.
Penalties for Employer Non-Compliance	Yes. To be determined.	Yes - \$250 per eligible employee to start.	Not Specified	Yes. If a covered employer is not in compliance, the covered employer may not receive a waiver of the State's \$300 filing fee. Applies only after program is open for enrollment.	Yes. The employee, or the Labor Commissioner, may bring a civil action to require the employer to enroll the covered employee and shall recover attorneys' fees.
Structure of Accounts	Traditional IRA	Roth IRA	Defined Contribution Plan (IRA is intent)	One or more payroll deposit IRA arrangements to be determined by the Board.	Roth IRA
Automatic Enrollment	Yes	Yes. Small employers' use of automatic enrollment is subject to the DOL final rule. ⁵	Yes	Yes	Yes

⁵ See Illinois footnote at "Availability to Other Employers" for clarification.

	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Employee Opt-Out	Yes	Yes	Yes	Yes	Yes
Employee Re-Enrollment after Opt-Out	Yes, but only during designated open re-enrollment period.	Yes, but only during designated open re-enrollment period.	Not Specified	Yes, in accordance with procedures established by the Board.	Not Specified
Default Contribution Rate	3% (with administrative discretion in the range of 2% to 4%).	3%	The Board has discretion to set the employee contribution level.	The Board has discretion to set default, minimum and maximum employee contribution levels.	3%
Employer Contribution	Permitted only if would not trigger ERISA.	Not permitted	Not permitted	Not specified	Not permitted
Availability to Other Employers	Yes. Employees of non-participating employers and the self-employed may be allowed to contribute.	Yes. Employers with fewer than 25 employees may be allowed to participate. Will establish a process by which an individual may voluntarily enroll in and make contributions to the Program. Small employers' use of automatic enrollment is subject to DOL's final rule. ⁶	Will be determined by market analysis.	Yes, the Board may evaluate and establish the process by which an employee of a non-participating employer may participate.	Yes. A private employer with four (4) employees or fewer may make the program available to its employees. No employer shall require any employee to enroll in the program.

⁶ The DOL proposed rule allows the use of auto-enrollment only by those employers mandated to participate in a state-sponsored savings arrangement. For those employers below the employee threshold, the current proposed rule would not allow employers to use auto-enrollment. For states such as Illinois, utilization of automatic enrollment by small employers may be allowed only if it does not create employer liability under ERISA.

	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Tax & Other Incentives	Yes. Disseminate information about tax credits available to small businesses for establishing retirement plans. Also, encourage the use of federal Saver's Tax Credit available to low and moderate income households to encourage retirement savings.	Not specified	Board can examine ways to reduce costs through incentives, tax credits or other means.	The state will waive the annual corporate filing fee of \$300 per year for those qualifying employers who participate in the state program or otherwise provides auto-enroll IRA or annuity or an employer offered savings arrangement that is in compliance with federal law.	The Board shall disseminate information concerning the tax credits that may be available to small business owners for establishing new retirement plans.

	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Investment of Assets	The Board may consider a range of asset categories for the investment of funds including: equities; US and corporate debt obligations; securities; money market funds; mutual funds; insurance agreements; and FDIC-insured bank products. Equities cannot exceed 50 percent of overall asset allocation of the fund.	The Board shall establish investment options for enrollees to include: default life-cycle target date fund and any or all of the following: a conservative principal protection fund; a growth fund; a secure return fund; and an annuity fund.	Not specified	The Board shall evaluate and establish a range of investment options including a default investment selection for employees' payroll deposit IRAs. The Board may not offer options that could result in liability to the state or its taxpayers. When selecting investment options, the Board will consider methods to minimize the risk of significant investment losses at the time of a participating employee's retirement. The Board will consider investment options that minimize administrative expenses, and may provide an investment option that provides an assured lifetime income.	The Authority shall provide for each participant's account to be invested in an age-appropriate target date fund with the vendor selected by the participant (or the program default option applies) or other investment vehicles as deemed feasible and cost effective by the Authority. The program will offer qualified retirement investment choices offered by multiple vendors. The assets must be held in trust or custodial accounts meeting the federal requirements for IRAs. Once the participant reaches normal retirement age, fifty per cent of the participant's account will be invested in the lifetime income investment. Participants may elect to invest a higher percentage of account balances in the lifetime income investment. The Authority will designate a lifetime income investment option intended to provide participants with a source of retirement income for life.

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	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Investment Management and Liability	The Trust's Program Fund is to be invested as determined by the Board as its Trustee. The Board will engage outside investment firm(s). The Fund must be self-sustaining. Collective, common and pooled investment of assets. The Board may establish a "Gain and Loss" Reserve Account to allocate interest, at the stated interest rate, as needed. There must be a mechanism in place to protect the value of individuals' accounts and holds the state harmless against any liability. The Board must establish effective risk management and oversight programs.	The Program Fund is established with the Board as its Trustee and moneys in the fund from enrollees and participating employers will be held as pooled investments to achieve cost savings through efficiencies and economies of scale. The Board will engage outside investment firms, as needed, and select investment options that don't incur debt or liabilities to the state. The Fund will maintain individual accounts for enrollees. The Fund is not the property of the State and cannot be commingled with State funds. The Board also must establish effective risk management and oversight programs.	Pooled accounts established under the plan for investment; accounts will be professionally managed. Plan must maintain separate records and accounting for each plan account. May not guarantee any rate of return or interest rate on any contribution. The plan, the board, each board member and the State of Oregon may not be liable for any loss incurred by any person as a result of participating in the plan.	The Trust is established with contributions paid by employees and the Board shall delegate administration of the Trust to a third party. Assets of the Trust must remain in the Trust and cannot be transferred out. The Board may arrange for collective, common, and pooled investment of assets of the Program, with a goal of saving costs through efficiencies and economies of scale. The Board will also explore and establish investment options that offer employees returns on contributions and the conversion of individual retirement savings account balances to secure retirement income without incurring debt or liabilities to the state. The Board must adopt an investment policy that includes a risk management and oversight program. The Program Fund may be privately insured and is not guaranteed by the state.	The Authority may contract with financial institutions or other organizations offering or servicing retirement programs. The State will not be liable for the payment of any benefit to any participant or beneficiary of any participant and shall not be liable for any liability or obligation of the Authority. Any employer who provides automatic enrollment shall be relieved of liability for investment decisions made by the employer or the Authority as long as employees are given open notice and ability to select investments as required by law. Liability relief also extends to any plan official who makes investment decisions on behalf of participating employees.

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	California Secure Choice Retirement Savings Program	Illinois Secure Choice Savings Program	Oregon Retirement Savings Program	Maryland Small Business Retirement Savings Program and Trust	Connecticut Retirement Security Exchange
Fees	No more than 1%.	Total expenses cannot exceed .75% of the total trust balance.	Must keep administrative fees low.	Administrative expenses may not exceed 0.5% of assets under management in the Program.	Not specified, but the Authority shall minimize total annual fees, and after the completion of the fourth calendar year following the date that the program becomes effective, the total annual fees associated with the program shall not exceed three-quarters of one percent (.75%) of the total value of the program assets. Fees are defined as investment management charges, administrative charges, investment advice charges, trading fees, marketing and sales fees, revenue sharing, broker fees and other costs necessary to administer the program.

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Program Funding	The California Retirement Savings Trust includes an Administrative Fund and a Program Fund and the Trust must become self-sustaining. Moneys from the Program Fund are transferred to the Administrative Fund to cover the operating costs of the program. The State can accept any grants, gifts, legislative appropriation, and other moneys from the state, any unit of the federal, state or local government or any other person, firm, partnership or corporation for deposit to the program or administrative fund.	The Illinois Secure Choice Administrative Fund is created as a non-appropriated separate and apart trust fund in the State Treasury. The Administrative Fund is to be used by the Board to pay for administrative expenses it incurs. The Administrative Fund may receive any grants or other moneys designated for administrative purposes from the State, or any unit of federal or local government, or any other person, firm, partnership, or corporation.	The Oregon Retirement Administrative Savings Plan Fund must be self-sustaining and is established from funds to be continuously appropriated to the Board. It is separate and distinct from the General Fund. The Plan Fund consists of money appropriated by the Legislative Assembly; moneys transferred from the federal government, other state agencies or local governments; moneys from payment of fees; any gifts or donations; and earning on moneys in the fund. The Legislature appropriated \$250,000, which may be used only for reimbursing other state agencies for providing outreach or technical assistance services; and \$743,541, which may be used only for the operating expenses of the Board. The appropriation is a General Fund loan.	The Maryland Small Business Retirement Board, consistent with its fiduciary duties, may enter into an agreement to borrow funds from the state or any other entity to provide funding for the operation of the program until the program can generate sufficient funding for operations through fees assessed on program accounts. All expenses incurred to implement, maintain, and administer the Program and Trust will be paid from money collected by the Program or Trust. First-year start-up costs are estimated to be \$1.6 million.	The Connecticut Retirement Security Authority may borrow working capital funds and other funds as may be necessary for the start-up and continuing operation of the program, as long as such funds are borrowed in the name of the Authority only. Such borrowings shall be payable solely from revenues of the Authority.

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Establish Website	Yes. The creation of a Retirement Investments Clearinghouse, but only if there is sufficient interest in a site by private sector providers and if the private sector provides the funds to build and maintain the site. The website would contain information on the vendor registration process, retirement plans, and statements from participating vendors. Vendors must offer an appropriate array of accumulation funding options, including, but not limited to, investment options that offer guaranteed returns and the conversion of retirement savings account balances to secure retirement income, a diversified mix of value, growth, growth and income, hybrid and index funds or accounts across large, medium and small capitalization asset classes.	Yes. There must be sufficient interest in a site by private sector providers and if the private sector provides the funds to build and maintain the site.	Not Specified	Not Specified	Yes. The Authority shall establish and maintain a secure Internet web site to provide Exchange participants with information regarding approved vendors that offer individual retirement accounts through the program and the various investment options, including the historical investment performance of such options that may be available for such individual retirement accounts.

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Implementation Timeline	<p>The Board must complete the market and legal analyses and report to the Legislature for authorization before it can launch its program. Current plan is to complete the analyses by year end 2015 and go back to the Legislature in 2016.</p> <p>SB 1234 to authorize the program was introduced by Senator Kevin de León on February 18, 2016. The bill passed the Senate on June 2, 2016 and is now pending in the Assembly.</p>	<p>Enrollment of participants must be possible within 24 months after the effective date of the Act (by June 1, 2017). Employers then have 9 months after that date to set up their automatic payroll deposits for their employees. If the Board does not have adequate funds to implement the program within the specified timeframe, the Board may delay implementation.</p>	<p>By December 31, 2016, the Board must provide a report to the Legislative Assembly including, but not limited to, the market analysis, ways to increase financial literacy, analysis of cost to employers, and a timeline for program implementation so individuals may begin making contributions no later than July 1, 2017.</p>	<p>The Act will take effect July 1, 2016.</p>	<p>Not later than January 1, 2018, qualified employers need to provide covered employees with the informational materials prepared by the Authority. Not later than 60 days after a qualified employer provides informational materials to a covered employee, such qualified employer shall automatically enroll each of its covered employee in the program. The Authority may defer the effective date of the program, in whole or in part, as deemed necessary.</p>

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