SENATE BILL REPORT
SB 5544

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, February 10, 2005
Ways & Means, March 7, 2005

Title: An act relating to creating the Washington voluntary accounts program.

Brief Description: Creating the Washington voluntary accounts program.

Sponsors: Senators Spanel, Fairley, Brandland, Keiser, Franklin, Benson and Kohl-Welles.

Brief History:
Committee Activity: Financial Institutions, Housing & Consumer Protection: 2/2/05, 2/10/05[DPS-WM].
Ways & Means: 3/7/05 [DP2S, DNP, w/oRec].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5544 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benson, Brandland, Delvin, Franklin, Keiser, Prentice, Schmidt and Spanel.

Staff: Jennifer Arnold (786-7471)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5544 be substituted therefor, and the second substitute bill do pass.
Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Fairley, Kohl-Welles, Pridemore, Rasmussen, Regala and Rockefeller.

Minority Report: Do not pass.
Signed by Senators Zarelli, Ranking Minority Member; Hewitt, Pflug and Schoesler.

Minority Report: That it be referred without recommendation.
Signed by Senators Brandland, Parlette and Roach.

Staff: Erik Sund (786-7454)

Background: Eligible state and local government employees in Washington are enrolled in a number of public retirement plans, including the Public Employees' Retirement System, the Law Enforcement Officers' and Fire Fighters' Retirement System, the Teachers' Retirement System, and others. All plans of the state retirement systems are administered by the Department of Retirement Systems (DRS), which also administers these plans for covered local government employers and employees. The Washington State Investment Board (SIB) manages the investment of the funds of the state retirement systems, as well as other non-retirement funds.

Private employers take a wide variety of approaches to pension plans. Some provide their employees with pension benefits that share characteristics with the state retirement plans administered by the DRS, and some provide no pension plan to their employees. Private employers may also provide employees the opportunity to participate in a wide variety of other retirement plans, such as 401(k) plans.

Private employers offering pension plans to their employees must comply with an extensive body of federal law and regulation, the Employee Retirement Income Security Act, commonly referred to as "ERISA." Governmental plans, operated by a government for its own employees, are generally exempt from ERISA rules. For a private employer, however, in order to qualify for the tax benefits available for both employers and employees, employers must maintain adequate record-keeping, fairness, and funding in their pension plans as specified by ERISA.

Privately employed individuals participate in Social Security, and also have federally-regulated personal retirement investment opportunities such as the Individual Retirement Account (IRA) and many others. Banks, investment firms, and financial planners advise and assist individuals in planning and investing for retirement.

Summary of Second Substitute Bill: The Washington Voluntary Accounts Program is created in order to provide individual retirement accounts to workers in Washington State.
The amount that may be contributed to an individual retirement accounts created under this statute is governed by applicable federal laws. Employees determine how to invest their deferred earnings from a selection of investment options provided by SIB. For participants that choose not to self-direct their investments, an investment plan may be established by the Board. The DRS administrative costs associated with the program paid from a portion of the contributions and investment returns.
Private employers must cooperate with the DRS in order to facilitate the participation of their employees in the program. This cooperation includes enabling payroll deductions for employees who opt to contribute to individual retirement accounts. In addition to individual retirement accounts , the DRS may offer 401(k) or savings incentive matching plans to employers.

The SIB is required to invest the monies in the program in a manner consistent with state and federal law. Any state entity or employee is exempt from liability for account loss or deficiency due to the participant's selected investments under this program. The SIB and its officers, employees, and members are exempt from liability resulting from reasonable efforts to follow the investment directions, as well as liability arising from negligence, default, or failure to perform duties.

With the exception of establishing the program and administrative accounts, the program is not to be implemented until funds sufficient for plan design and tax qualification have been deposited into the administrative account. The sections related to the provision of individual accounts available shall not be implemented until appropriate start-up funds for program operations have been identified and an appropriation is made for the program in a state operating budget.

If the program has not attracted sufficient participation to allow it to become self-supporting within six years of first enrolling participants, the Director of the DRS must report to the fiscal committees of the Legislature with recommendations as to how the program may be terminated.

The DRS is responsible for adopting rules to implement the program.

Second Substitute Bill Compared to Substitute Bill: The State Investment Board may opt to establish an investment plan for participants that choose not to self-direct their investments. The Board's civil immunity is extended to provide the same immunity that currently exists for all other Board activities. It is clarified that the provisions of the program must meet applicable federal requirements. The program is not to be implemented until funds sufficient for plan design and tax qualification have been acquired, and not to be opened for enrollment until funds for starting up operations are available. If the program does not become self-sustaining within six years of the start of enrollment, the Director of the DRS is to make a recommendation to the Legislature on how to terminate the program.

Substitute Bill Compared to Original Bill: The State Investment Board may opt to establish an investment plan for participants that choose not to self-direct their investments. The Board's civil immunity is extended to provide the same immunity that currently exists for all other Board activities. It is clarified that the provisions of the program must meet applicable federal requirements.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: This bill takes effect on July 1, 2006.

Testimony For: (Financial Institutions, Housing & Consumer Protection) Half of all Americans have no retirement plan other than Social Security. This would be an opportunity to help people save for their retirement because Social Security is not enough on its own. Moreover, the typical worker does not have time to sort through all of their options and figure out how to comply with IRS rules. The accounts are wonderfully portable and would draw new savers into the market. This would also give investors a lot of advantages that they do not otherwise get. We have the ability to help people help themselves.

Testimony Against (Financial Institutions, Housing & Consumer Protection): None.

Other: DRS cannot use their current operating budget to fund the start-up costs of this program because those funds are legally restricted to other uses. This program would require IRS approval, which can be a lengthy process. The Department's fees for record keeping and administration of the plans could be quite high in the early years, reducing investment amounts to lower than what private firms could offer.

Who Testified (Financial Institutions, Housing & Consumer Protection): PRO: Senator Spanel, prime sponsor; Annie Cubberly, Child Care Action Council; Marilyn Watkins, Economic Opportunity Institute; Lauren Moughon, AARP Washington. OTHER: Dave Nelsen, Department of Retirement Systems.

Testimony For (Ways & Means): Many private employers choose not to offer retirement benefits to their employees because of the complexity of federal regulations governing pension and savings plans. As a result, many employees do not have access to a workplace based retirement savings plan. Many other states are currently developing similar programs.

Testimony Against (Ways & Means): None.

Who Testified (Ways & Means): PRO: Marilyn Watkins, Economic Opportunity Institute.