

**ASSEMBLY BILL NO. 4275
(Second Reprint)**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 4275 (Second Reprint) with my recommendations for reconsideration.

This bill establishes a State-run retirement savings program for employees of private small businesses in New Jersey that currently do not offer a retirement plan. It mandates employers to enroll their employees in the program unless the employees opt-out. A board would be established to oversee and implement the program, including choosing the investment options available for enrollees and making investment decisions on behalf of the enrollees.

This bill promotes the importance of saving for retirement, and I appreciate the efforts of the Legislature to highlight the problem of New Jersey workers having insufficient retirement savings. It is a major concern for workers in New Jersey and across the country. Many people do not know how they are going to afford retirement or when they will be able to retire.

I share the sponsors' concerns for the financial future of the residents of New Jersey, but I believe that the approach taken by the Legislature - mandating participation under a threat of fines for not participating - is unnecessarily burdensome on small businesses in New Jersey. The bill also requires the State to bear the initial cost of creating the program, subject only to reimbursement when funds become available. Finally, the bill creates yet another government bureaucracy to oversee and implement the program, while there are plenty of private sector entities with particular expertise that can perform this function instead.

To sustain the long-term financial health of New Jersey, its residents, and the businesses that operate here, it is imperative that the State encourage employers and employees to take advantage of the retirement savings opportunities already available to them in the market.

The State of Washington recently adopted a small business marketplace, endorsed by AARP, to connect eligible employers and their employees with already existing retirement plans that best meet their individual needs. The marketplace model appropriately focuses on maximizing participation in available retirement savings options instead of creating a new State-run program to provide duplicative services. My recommendations are consistent with the model adopted in Washington and will ensure that individuals are able to invest in their own futures instead of relying on the State to do so for them.

Accordingly, I herewith return Assembly Bill No. 4275 (Second Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 1: Delete "concerning individual retirement savings for certain" and insert "establishing a retirement savings marketplace"

Page 2, Title, Line 2: Delete "workers"

Page 2, Section 1, Lines 7-8: Delete in their entirety and insert new sections to read as follows:

"1. This act shall be known and may be cited as the "New Jersey Small Business Retirement Marketplace Act."

2. The Legislature finds and declares that:

a. it is appropriate to create a New Jersey Small Business Retirement Marketplace because there is a retirement savings gap in this State, one in six Americans retire in poverty, and employees who are unable to effectively build their retirement savings risk

living on low incomes in their elderly years and are more likely to become dependent on State services;

b. small businesses, which employ half of New Jersey's private workforce, often choose not to offer retirement plans to employees due to concerns about the cost, administrative burden, and potential liability that they believe would be placed on their businesses;

c. the federal government has attempted to address the savings gap by establishing the myRA program, a safe, affordable, and accessible retirement vehicle designed to remove barriers to retirement savings;

d. the New Jersey Small Business Retirement Marketplace will remove the barriers to entry into the retirement market for small businesses by educating small employers on plan availability and promoting, without mandating participation, qualified, low cost, low burden retirement savings vehicles and myRA; the marketplace furthers greater retirement plan access for the residents of New Jersey while ensuring that individuals participating in these retirement plans will have all the protections offered by federal law;

e. the New Jersey Small Business Retirement Marketplace should not place any financial burden upon taxpayers in the State and it should not be implemented if it is determined that there is any financial exposure to the State;

f. the New Jersey Small Business Retirement Marketplace will be the best way for New Jersey to close the retirement savings access gap, protect the fiscal stability of the State and its citizens well into the future, become a national leader in retirement and investor promotion and protection, and educate and

promote retirement saving among employees and small employers;

g. according to a recent AARP poll, 86 percent of New Jersey residents age 35 and older say they hope to retire one day, but 65 percent are anxious about saving enough money so they could afford it, and AARP estimates that roughly 1.7 million private sector workers in New Jersey do not have access to a retirement savings plan through their employer, and the National Institute of Retirement Security describes this as a growing consumer crisis, because the typical family has saved only \$2,500 for their retirement;

h. AARP has been instrumental in leading a national initiative called Work and Save to deal with retirement insecurity by promoting state run retirement programs, including the Washington Small Business Retirement Marketplace, signed into law in May 2015, designed to provide thousands of small business employees access to retirement plans by creating a voluntary public-private partnership marketplace that will educate small business employers on existing private sector retirement plan vendors;

i. the Washington marketplace was the result of public and private organizations coming together to find the most effective and efficient way to close the retirement savings access gap, and the following organizations have endorsed the Washington marketplace: AARP, Securities Industry and Financial Markets Association, the American Council of Life Insurers, Washington Bankers Association, and various employer groups; and

j. by following this model, the New Jersey Small Business Retirement Marketplace will provide a market-based approach so that small businesses can offer a simple and inexpensive way to offer private savings to their

employees, which will result in workers saving more for retirement throughout their lives.

3. As used in this act:

"Approved plans" means retirement plans offered by private sector financial services firms that meet the requirements of this act to participate in the marketplace.

"Balanced fund" means a mutual fund that has an investment mandate to balance its portfolio holdings and generally includes a mix of stocks and bonds in varying proportions according to the fund's investment outlook.

"Eligible employer" means a person, firm, corporation, partnership, or sole proprietor, or any other employer that is actively engaged in business with fewer than 100 qualified employees at the time of enrollment, and a majority of which employees are employed in New Jersey.

"Enrollee" means any employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the marketplace.

"myRA" means the myRA retirement program administered by the United States Department of the Treasury that is available to all employers and employees with no fees or no minimum contribution requirements. "myRA" is a Roth IRA option, and investments in these accounts are backed by the United States Department of the Treasury.

"New Jersey Small Business Retirement Marketplace" or "marketplace" means the retirement savings program created to connect eligible employers and their employees with approved plans to increase retirement savings.

"Participating employer" means any eligible employer with employees enrolled in an approved plan offered through

the New Jersey Small Business Retirement Marketplace who chooses to participate in the marketplace and offers approved plans to employees for voluntary enrollment.

"Private sector financial services firms" or "financial services firms" means persons or entities licensed or holding a certificate of authority or authorized to do business in the State, in good standing by the Department of Banking and Insurance and the Bureau of Securities in the Division of Consumer Affairs in the Department of Law and Public Safety, and meeting all federal laws and regulations to offer retirement plans.

"Qualified employee" means those workers who are defined by the federal Internal Revenue Service to be eligible to participate in a specific qualified plan.

"Target date or other similar fund" means a mutual fund that automatically resets the asset mix of stocks, bonds, cash equivalents, and other investments in its portfolio according to a selected time frame that is appropriate for a particular investor and is structured to address a projected retirement date.

4. There is established the New Jersey Small Business Retirement Marketplace in the Department of the Treasury.

5. a. The State Treasurer, or the Treasurer's designee, shall design and implement a plan for the operation of the marketplace pursuant to the provision of this act. Thereafter, the State Treasurer, or the Treasurer's designee, shall facilitate the connections between eligible employers and approved plans included in the marketplace.

b. The State Treasurer, or the Treasurer's designee, shall consult with the Director of Investment of the Department of the Treasury, or the director's designee; the Commissioner of Banking

and Insurance, or the commissioner's designee; the Commissioner of Labor and Workforce Development, or the commissioner's designee; the Chairperson of the State Investment Council, or the chairperson's designee; the Director of the Division of Pensions and Benefits, or the director's designee; and the Chief Executive Officer of the New Jersey Economic Development Authority, or the chief executive office's designee, in designing and managing the marketplace.

c. The State Treasurer, or the Treasurer's designee, shall approve private sector financial service firms as defined in section 3 of this act for participation in the marketplace. The State Treasurer, or the Treasurer's designee, shall ensure that the range of investment options offered by the financial service firms is sufficient to meet the needs of investors with various levels of risk tolerance and various ages.

d. The State Treasurer, or the Treasurer's designee, shall approve a diverse array of private retirement plan options that are available to employers on a voluntary basis, including life insurance plans that are designed for retirement purposes, and at least two types of plans for eligible employer participation, including:

(1) a SIMPLE IRA type plan that provides for employer contributions to participating enrollee accounts; and

(2) a payroll deduction individual retirement account type plan or workplace-based individual retirement accounts open to all workers in which the employer does not contribute to the employees' account.

e. Prior to approving a plan to be offered on the marketplace, the State Treasurer, or the Treasurer's designee, shall obtain

certification from the Department of Banking and Insurance and the Bureau of Securities in the Division of Consumer Affairs in the Department of Law and Public Safety that the financial services firm providing the plan is in good standing with the department and the bureau and shall ensure that the plan meets the requirements of this act. The State Treasurer, or the Treasurer's designee, may at any time remove any approved plan from the marketplace that no longer meets the requirements of this act.

f. The financial services firms participating in the marketplace shall offer a minimum of two product options, including:

(1) a target date or other similar fund, with asset allocations and maturities designed to coincide with the expected date of retirement; and

(2) a balanced fund.

The marketplace shall offer myRA in addition to any other approved plan.

g. The marketplace shall not operate unless there are at least two financial services firms offering approved plans on the marketplace; however, nothing in this section shall be construed as to limit the number of financial services firms with approved plans participating in the marketplace.

h. The State Treasurer, or the Treasurer's designee, shall ensure that approved plans are compliant with any federal law or regulation regarding Internal Revenue Service approved retirement plans.

i. Approved plans shall include the option for enrollees to roll pretax contributions into a different individual retirement account or another eligible retirement plan after ceasing participation

in a plan approved by the marketplace.

j. Financial services firms selected by the State Treasurer, or the Treasurer's designee, to offer approved plans on the marketplace shall not charge the participating employer an administrative fee or surcharge and shall not charge enrollees more than 100 basis points in total annual fees and shall provide information about their product's historical investment performance.

k. Participation in the marketplace is voluntary for both eligible employers and qualified employees, and enrollment in any approved plan offered in the marketplace is not an entitlement.

l. The State Treasurer, or the Treasurer's designee, shall establish protocol to address rollovers for eligible employers that have workers in other states, and to address whether out-of-state employees with existing IRAs may roll them into the plans offered through the marketplace.

m. The State Treasurer, or the Treasurer's designee, may establish a fee system that charges financial services firms that participate in the marketplace in order to cover the startup and annual administrative expenses of the State Treasurer, or the Treasurer's designee, in the performance of its duties under this act.

6. a. The State Treasurer, or the Treasurer's designee, shall contract with one or more private sector entities to:

(1) establish a protocol for reviewing and approving the qualifications of all financial services firms that meet the requirements to participate in the marketplace;

(2) design and operate an Internet website that

includes information on how eligible employers can voluntarily participate in the marketplace;

(3) develop marketing materials about the marketplace that can be distributed electronically or posted on both public and private sector maintained websites;

(4) identify and promote existing federal and State tax credits and benefits for employers and employees that are related to encouraging retirement savings or participating in retirement plans; and

(5) promote the benefits of retirement savings and other information that promotes financial literacy.

b. The State Treasurer, or the Treasurer's designee, shall direct any private sector entity contracted pursuant to subsection a of this section to assure that licensed professionals who assist their clients that are eligible employers or their employees to enroll in a plan offered through the marketplace will receive routine, market-based commissions or other compensation for their services.

c. The State Treasurer, or the Treasurer's designee, shall establish rules to ensure that there are objective criteria in the protocol established pursuant to subsection a(1) of this section and that the protocol does not provide an unfair advantage to the private sector entity that establishes the protocol.

7. In addition to any funds appropriated for the purposes of this act, the State Treasurer, or the Treasurer's designee, shall approve the use of private funding sources, including private foundation grants, to pay for marketplace expenses. On behalf of the marketplace, the Department of Treasury shall seek federal and

private grants and is authorized to accept any funds awarded to the State Treasurer, or the Treasurer's designee, for use in designing, implementing, and operating the marketplace.

8. The Department of Treasury shall not expose the State as an employer or through administration of the marketplace to any liability under the federal "Employee Retirement Income Security Act of 1974" (29 U.S.C. s. 1001 et seq.). The Department of Treasury is specifically prohibited from offering and operating a State-sponsored retirement plan for businesses for individuals who are not employed by the State, or any political subdivision thereof.

9. The State Treasurer, or the Treasurer's designee, shall approve incentive payments to participating employers that enroll in the marketplace if there are sufficient funds provided by private foundations or other private sector entities, or with State funds specifically appropriated for this purpose.

10. The State Treasurer, or the Treasurer's designee, shall report biennially to the Legislature on the effectiveness and efficiency of the marketplace, including levels of enrollment and the retirement savings levels of participating enrolled that are obtained in aggregate on a voluntary basis from private sector financial services firms that participate in the marketplace.

11. The State Treasurer, or the Treasurer's designee, shall ensure that any individual retirement account products proposed for inclusion in the marketplace comply with the requirements of section 5 of this act.

12. The Department of Treasury shall promulgate regulations, pursuant to the "Administrative Procedure

Act," P.L.1968, c.410
(C.52:14B-1 et seq.)
necessary to effectuate the
purposes of this act. In
promulgating regulations, the
State Treasurer, or the
Treasurer's designee, shall
consult with organizations
representing eligible
employers, qualified
employees, private and
nonprofit sector retirement
plan administrators and
providers, private sector
financial services firms, and
any other individual or
entities that the State
Treasurer, or the Treasurer's
designee, determines relevant
to the effective and
efficient method for
effectuating the purposes of
this act."

Page 2, Section 2, Lines 10-43: Delete in their entirety

Page 3, Section 2, Lines 1-15: Delete in their entirety

Page 3, Section 3, Lines 17-22: Delete in their entirety

Page 3, Section 4, Lines 24-41: Delete in their entirety

Page 3, Section 5, Lines 43-48: Delete in their entirety

Page 4, Section 5, Lines 1-7: Delete in their entirety

Page 4, Section 6, Lines 9-47: Delete in their entirety

Page 5, Section 7, Lines 1-16: Delete in their entirety

Page 5, Section 8, Lines 18-47: Delete in their entirety

Page 6, Section 8, Lines 1-47: Delete in their entirety

Page 7, Section 8, Lines 1-33: Delete in their entirety

Page 7, Section 9, Lines 35-47: Delete in their entirety

Page 8, Section 10, Lines 1-9: Delete in their entirety

Page 8, Section 11, Lines 11-46: Delete in their entirety

Page 9, Section 12, Lines 1-8: Delete in their entirety

Page 9, Section 13, Lines 10-48: Delete in their entirety

Page 10, Section 14, Lines 1-47: Delete in their entirety

Page 11, Section 14, Lines 1-32: Delete in their entirety

Page 11, Section 15, Lines 34-46: Delete in their entirety

Page 12, Section 16, Lines 1-12: Delete in their entirety

Page 12, Section 17, Lines 14-22: Delete in their entirety

Page 12, Section 18, Lines 24-48: Delete in their entirety

Page 13, Section 18, Lines 1-3: Delete in their entirety

Page 13, Section 19, Lines 5-47: Delete in their entirety
Page 14, Section 19, Lines 1-47: Delete in their entirety
Page 15, Section 19, Lines 1-47: Delete in their entirety
Page 16, Section 19, Lines 1-3: Delete in their entirety
Page 16, Section 20, Lines 5-8: Delete in their entirety
Page 16, Section 21, Lines 10-12: Delete in their entirety
Page 16, Section 22, Lines 14-24: Delete in their entirety
Page 16, Section 23, Line 26: Delete "23." and insert "13."

Respectfully,

[seal]

/s/ Chris Christie

Governor

Attest:

/s/ Thomas P. Scrivo

Chief Counsel to the Governor