
OLR Bill Analysis

sSB 136 (File 90, as amended by Senate "A")*

AN ACT MAKING CHANGES TO THE CONNECTICUT RETIREMENT SECURITY PROGRAM STATUTES.

SUMMARY

This bill makes various changes to the Connecticut Retirement Security Program, a program the Office of the State Comptroller administers to establish a retirement program with Roth individual retirement accounts (IRAs) for eligible private-sector employees. Among other things, the bill:

1. reduces how long an employee must work for their employer to be a “covered employee” under the program;
2. extends the program, starting July 1, 2025, to cover certain personal care attendants (PCAs) who provide personal care assistance under a state-funded program (e.g., the Connecticut Home Care Program for Elders);
3. increases the default contribution level from 3% to 5% for participants who enroll in the program on or after July 1, 2024, but do not affirmatively pick a contribution level for themselves;
4. allows the comptroller to (a) set automatic annual increases to the default contribution level and (b) invest a participant’s contributions in a capital preservation investment fund for up to 60 days when a participant does not affirmatively select an investment vehicle;
5. creates a notice requirement and financial penalty for noncompliant employers, rather than allowing the labor commissioner or comptroller to sue them, as current law does;

6. allows the comptroller to adopt regulations to implement the provisions on a notice requirement and financial penalty for noncompliant employers (§ 7);
7. gives certain liability protections to the program's advisory board members and employers covered by the program;
8. expands the comptroller's powers in administering the program to, among other things, allow him to enter into certain contracts and intergovernmental agreements;
9. repeals a requirement for the comptroller to set up and maintain a website for qualified employers and vendors (§ 10); and
10. makes various conforming changes (e.g., §§ 4, 5 & 8).

*Senate Amendment "A" adds the provision expanding the program to cover certain PCAs.

EFFECTIVE DATE: July 1, 2024, except that the repealed provision is effective upon passage.

§ 1 — COVERED EMPLOYEES

The bill reduces, from 120 days to 30 days, how long an employee must work for their employer to be a "covered employee" under the program. By law, employers covered by the program must give employees certain information about the program within 30 days after they become a "covered employee," and automatically enroll them in the program within 60 days after that. Covered employees may opt out of the program by selecting a contribution level of zero.

PCAs

Starting July 1, 2025, the bill extends the program to also cover certain PCAs who (1) have been employed by a qualified employer for at least 30 days, (2) are at least age 19, and (3) perform services in the state covered by the state unemployment law. Current law generally excludes employees who work for an employer with less than five employees. Under the bill, eligible PCAs must also be employed by a

consumer or their surrogate to provide personal care assistance (e.g., supportive home care, personal care, or another nonprofessional service) to the consumer under a state-funded program such as the Medicaid Acquired Brain Injury Waiver Program, Medicaid Personal Care Assistance Waiver Program for adults with disabilities, or Connecticut Home Care Program for Elders.

Starting July 1, 2025, the bill correspondingly makes the consumers who receive services from these PCAs “qualified employers” under the retirement security program. In doing so, it requires these consumers to (1) give their PCAs certain information about the program, (2) automatically enroll the PCAs in the program within 60 days after giving them this information, and (3) withhold their contributions to the program from their compensation and submit it to the program (CGS § 31-422). It also subjects these consumers to the potential penalties for failing to enroll an eligible PCA or remit a PCA’s contributions to the program (see § 7 below).

Under current law, qualified employers do not include employers that (1) only employ people who are exempted from coverage under the state’s unemployment law for certain reasons (e.g., when they work for their children or spouse) or (2) did not exist at all times during the current and preceding calendar year. The bill excludes the PCAs’ consumers from both of the exceptions.

§§ 1, 3 & 6 — DEFAULT CONTRIBUTION LEVELS AND INVESTMENTS

Default Contribution Levels (§ 1)

The bill increases the default contribution level for participants who enroll in the program on or after July 1, 2024. Under current law, participants must contribute 3% of their taxable wages to the program unless they affirmatively choose to contribute a different amount. The bill increases this default contribution level to 5% for participants who enroll in the program on or after July 1, 2024.

Automatic Increase to Default Contribution Levels (§ 3)

The bill allows the comptroller, in consultation with the program’s

advisory board, to establish automated annual increases to the default contribution level for participants who have not affirmatively chosen how much to contribute. Under the bill, the default contribution level cannot increase by more than 1% each year or exceed 10% in total, as allowed under federal tax law.

Default Investment Vehicle (§ 6)

Existing law requires the comptroller to have each participant's account invested in either an age-appropriate target date fund or other investment vehicles that the participant affirmatively selects. The bill further specifies what the comptroller must do if the participant does not affirmatively select an investment vehicle within 60 days. In these cases, the bill allows the comptroller to invest the participant's contributions in a capital preservation investment fund, such as a money market fund or other short-term investment fund, for up to 60 days after the participant's first contribution. If the participant has not made an affirmative selection after those 60 days, the bill requires the comptroller to transfer and invest the contributions into an age-appropriate target date fund as required under existing law. The participant may affirmatively select an alternate investment vehicle at any time during or after the 60-day period, and if he or she does so, the comptroller must deposit the contributions into that vehicle.

§ 7 — NONCOMPLIANT EMPLOYERS

Under current law, if a qualified employer (i.e., one subject to the program's requirements) fails to enroll an eligible employee in the program, either the labor commissioner or the comptroller may sue the employer to require compliance and recover costs and attorney's fees. The bill eliminates this provision and instead creates a notice requirement and financial penalty for the noncompliant employers.

More specifically, the bill requires the comptroller to send at least two notices of noncompliance, followed by a final notice of noncompliance, to any qualified employer that fails to (1) enroll its eligible employees in the program as required or (2) timely remit employee contributions to the program as required. The bill allows the comptroller to assess a civil penalty on an employer each year that the employer is found to be

noncompliant at least 90 calendar days after the final notice of noncompliance was served. The maximum amount of the civil penalty is based on the employer's number of employees, as shown in the table below.

Table: Penalty for Noncompliant Employers

<i>Number of Employees</i>	<i>Maximum Penalty</i>
5 – 24	\$500
25 – 99	\$1,000
100+	\$1,500

Under existing law, unchanged by the bill, an employer's failure to remit an employee's contributions to the program also violates the law that generally prohibits employers from withholding employee wages.

§ 2 — ADVISORY BOARD & LIABILITY INDEMNITY

By law, the Connecticut Retirement Security Advisory Board advises the comptroller on matters like using the program's surplus funds and modifying the program to meet federal tax law and regulations. The bill makes the board's quorum requirement a majority of the members, rather than eight of the board's members (by law, the board consists of 15 members).

It also protects anyone who serves on the board from personal liability for the program's debts, obligations, or liabilities, and requires the comptroller to indemnify and hold harmless anyone acting under the law as an advisory board member.

§ 9 — EMPLOYER AND LIABILITY PROTECTION

Under the bill, employers covered by the program are not:

1. liable for their employees' decisions to participate or not in the program or the board's or enrollees' investment decisions;
2. fiduciaries of the program;
3. responsible for the program's administration, investments, or investment performance; or

4. liable for investment returns, program design, and benefits paid to participants.

§ 3 — OTHER COMPTROLLER POWERS

Current law allows the comptroller, in consultation with the advisory board, to contract with financial institutions or other organizations offering retirement programs. The bill also (1) allows him to contract with legal counsel and to obtain additional legal advice and assistance that he needs to administer the program and (2) specifies that these institutions, organizations, and counsel serve at the comptroller's pleasure and perform duties as he directs.

In addition, the bill allows the comptroller to enter into an intergovernmental agreement, a cooperative agreement, or reciprocal agreement on topics like data collection, shared program administration and financial services, pooled investment of assets, marketing and outreach support, program evaluation and research, participant privacy, and any other collaboration area. He may enter into these agreements with another state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 4 (03/07/2024)