The Business Council

ISSUES IN BRIEF

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"Secure Choice"

With finalization of the FY 2019 State Budget (S.7505-C/A.9505-C, Part X), New York became the eight state to adopt a retirement program for employees not offered retirement benefits at work. New York adopted the "secure choice" model championed by AARP, currently in place in California and Illinois. The sponsors contend that an estimated 3.5 million New York employees who currently have no employer-based retirement savings mechanism will be eligible to participate.

In 2016 Governor Cuomo established the SMART Commission ("Saving More to Achieve Richer Tomorrows") to study options for a state-administered retirement savings program for workers whose employers do not offer a retirement plans. The SMART Commission seldom met and did not issue a consensus report reach a consensus. Meanwhile, the Legislature drafted several competing proposals. Early versions of the bill, introduced in both houses, mandated employer participation and even employer financial contribution. The Business Council vigorously opposed those measures because of the financial burden that they would have put on employers state-wide. Through ongoing discussions and advocacy, the most troubling attributes of the plan began to drop away. Final legislative versions of the plan no longer included employer mandates for participation or contribution.

Key provisions of the new law:

- the program will be open to all private sector employees at least 18 years old that are earning wages from an eligible employers, and employees will be allowed to participate or not, set their contribution limits, and select among available investment options;

- eligible employers include those private sector entities that have not offered a qualified retirement plan in the preceding two years (a provision to prevent employers dropping current retirement plans and becoming immediately eligible to participate in "secure choice");

- a seven-person board, comprised of the state tax commissioner, state comptroller, the DFS superintendent and four public representatives, is charged with designing and implementing the program, to be available for enrollment within 24 to 36 months of the law's passage.

- the program's expenses will be financed exclusively by employee contributions, with no financial liability to the state.

- employee contributions will be collected through wage-withholdings, with a default level of 3 percent of wages, capped at IRA contribution limits.

- participating employers' obligations are limited to providing state-provided information to existing and newly hired employees, and providing for the withholding and remittance of employee contributions. The bill provides that employers have no liability for employee's contributions or the programs' investments.

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The Business Council will continue to monitor the development of the Secure Choice program and the promulgation of associated regulations to ensure that the interests of employers continue to be protected. Feel free to contact us with any questions or comments.

We welcome your questions and comments.

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