

S.5395-A (Savino)/A.3213-A (Rodriguez)

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| BILL S.5395-A (Savino)/A.3213-A (Rodriguez) |
| SUBJECT Secure Choice Savings Program |
| DATE May 04, 2021 |
| OPPOSE |

This Business Council opposes this legislation that would require all New York employers with at least ten employees that have been in business for two years, but do not offer a qualified retirement plan to their employees, to participate in the yet-to-be implemented "Secure Choice Savings Program." Moreover, this bill would mandate the automatic enrollment by all employees of such employers, and would require individuals who do not wish to participate to proactively opt-out of the program.

We support the general intent of the Secure Choice program, however, we do not support the mandated participation by employers, especially small employers.

When legislation authorizing the "Secure Choice" program was first adopted with great fanfare and urgency in April 2018, the program allowed employers to elect to offer the program to their employees and allowed their employees the choice to opt-in to this state sponsored retirement program.

Importantly, the board charged with designing and implementing the program was slow to be appointed, and has had few substantive meetings over the past three years. Needless to say, the "Secure Choice" program has yet to be launched.

Even so, the legislature is now proposing to mandate participation by both employers (with no opt out option) and their employees (with an opt-out option.)

Frankly, the bill language is somewhat ambiguous, perhaps disingenuous, as it does not come right out and say that employer participation is required (based on the criteria mentioned above.) Instead, it:

- Modifies existing provisions for a process for "the voluntary enrollment of participating employers in the program," by striking the term "voluntary,"
- It strikes the existing provisions stating that "No employer shall be required to participate in or otherwise implement the program," and
- Modifies the definition of a "participating employer" by striking the requirement that such an employer "elects to facilitate" access to the

program by its employees.

Nonetheless, the effect is clear. Small businesses without an employee retirement plan must undertake the administrative requirements of this bill.

While these requirements might be modest – communications with employees and new hires, maintaining a payroll system that accommodates automatic payroll deductions and payments into the Secure Choice program – they come on top of significant additional labor and HR mandates imposed on employers by both federal and state legislation.

At a time when businesses, especially small businesses, are focusing on recovery from the COVID crisis, we should avoid imposing additional administrative burdens on employers.

We believe the Secure Choice program should be launched on a voluntary basis, as originally intended under its 2018 authorizing legislation. If well designed and executed, it will be seen as a valuable employee benefit by employers, and increased participation will naturally follow. We support that approach rather than its imposition as an additional compliance mandate.