

# Senate Bill 404

Sponsored by Senator FERRIOLI; Senator KNOPP (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Removes provisions providing for automatic enrollment of employees in Oregon Retirement Savings Plan. Provides for voluntary enrollment in plan.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to prohibiting automatic enrollment in the Oregon Retirement Savings Plan; amending ORS  
3 178.210, 178.215 and 178.230; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 178.210 is amended to read:

6 178.210. (1) The plan developed and established by the Oregon Retirement Savings Board under  
7 ORS 178.205 must:

8 (a) Allow eligible individuals employed for compensation in this state to contribute to an ac-  
9 count established under the plan through payroll deduction.

10 (b) Require an employer to offer its employees the opportunity to contribute to the plan through  
11 payroll deductions unless the employer offers a qualified retirement plan, including but not limited  
12 to a plan qualified under section 401(a), section 401(k), section 403(a), section 403(b), section 408(k),  
13 section 408(p) or section 457(b) of the Internal Revenue Code.

14 (c) **Not** provide for automatic enrollment of employees and allow employees to [*opt out of*] **vol-**  
15 **untarily enroll in** the plan.

16 (d) Have a default contribution rate set by the board by rule.

17 (e) Offer default escalation of contribution levels that can be increased or decreased within the  
18 limits allowed by the Internal Revenue Code.

19 (f) Provide for contributions to the plan to be deposited directly with the investment adminis-  
20 trator for the plan.

21 (g) Whenever possible, use existing employer and public infrastructure to facilitate contributions  
22 to the plan, recordkeeping and outreach.

23 (h) Require no employer contributions to employee accounts.

24 (i) Require the maintenance of separate records and accounting for each plan account.

25 (j) Provide for reports on the status of plan accounts to be provided to plan participants at least  
26 annually.

27 (k) Allow for account owners to maintain an account regardless of place of employment and to  
28 roll over funds into other retirement accounts.

29 (L) Pool accounts established under the plan for investment.

30 (m) Be professionally managed.

31 (n) Provide that the State of Oregon and employers that participate in the plan have no pro-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 proprietary interest in the contributions to or earnings on amounts contributed to accounts established  
2 under the plan.

3 (o) Provide that the investment administrator for the plan is the trustee of all contributions and  
4 earnings on amounts contributed to accounts established under the plan.

5 (p) Not impose any duties under the Employee Retirement Income Security Act of 1974 (29  
6 U.S.C. 1001 et seq.) on employers.

7 (q) Keep administration fees in the plan low.

8 (r) Allow the use of private sector partnerships to administer and invest the contributions to the  
9 plan under the supervision and guidance of the board.

10 (s) Allow employers to establish an alternative retirement plan for some or all employees.

11 (2) The plan, the board, each board member and the State of Oregon may not guarantee any rate  
12 of return or any interest rate on any contribution. The plan, the board, each board member and the  
13 State of Oregon may not be liable for any loss incurred by any person as a result of participating  
14 in the plan.

15 **SECTION 2.** ORS 178.215 is amended to read:

16 178.215. The Oregon Retirement Savings Board shall adopt rules that:

17 (1) Establish the process for voluntary enrollment in the plan developed under ORS 178.205[,  
18 *including procedures for automatic enrollment of employees and for employees to opt out of the plan.*].

19 (2) Establish the process for participants to make the default contributions to plan accounts and  
20 to adjust the contribution levels.

21 (3) Establish the process for employers to withhold employee contributions to plan accounts  
22 from employees' wages and send the contributions to the investment administrator for the plan.

23 *[(4) Establish the process for allowing employees to opt out of enrollment in the plan.]*

24 **(4) Establish the process for participants to disenroll from the plan.**

25 (5) Establish the process for participants to make nonpayroll contributions to plan accounts.

26 (6) Set minimum, maximum and default contribution levels in accordance with limits established  
27 by the Internal Revenue Code.

28 (7) Establish the process for withdrawals from plan accounts.

29 (8) Establish the process and requirements for an employer to obtain an exemption from offering  
30 the plan if the employer offers a qualified retirement plan, including but not limited to a plan qual-  
31 ified under section 401(a), section 401(k), section 403(a), section 403(b), section 408(k), section 408(p)  
32 or section 457(b) of the Internal Revenue Code.

33 (9) Mandate the contents and frequency of required disclosures to employees, employers and  
34 other plan participants. These disclosures must include, but need not be limited to:

35 (a) The benefits and risks associated with making contributions to the plan;

36 (b) Instructions for making contributions to the plan;

37 *[(c) How to opt out of the plan;]*

38 *[(d)]* (c) How to participate in the plan with a level of contributions other than the default rate;

39 *[(e)]* (d) The process for withdrawal of retirement savings;

40 *[(f)]* (e) How to obtain additional information about the plan;

41 *[(g)]* (f) That employees seeking financial advice should contact financial advisers, that partic-  
42 ipating employers are not in a position to provide financial advice and that participating employers  
43 are not liable for decisions employees make pursuant to ORS 178.200 to 178.245;

44 *[(h)]* (g) That the plan is not an employer-sponsored retirement plan; and

45 *[(i)]* (h) That the plan accounts and rate of return are not guaranteed by the state.

1        **SECTION 3.** ORS 178.230 is amended to read:

2        178.230. (1) Before establishing a plan developed under ORS 178.205, the Oregon Retirement  
3 Savings Board shall:

4        (a) Conduct a market analysis to determine:

5        (A) The feasibility of the plan.

6        (B) Whether and to what extent plans with the characteristics described in ORS 178.210 cur-  
7 rently exist in the private market.

8        (b) Obtain legal advice regarding the applicability of the Employee Retirement Income Security  
9 Act of 1974 (29 U.S.C. 1001 et seq.) and the Internal Revenue Code to the plan.

10       (c) Investigate whether employers that are not required to participate in the plan can make the  
11 plan available to their employees.

12       (d) Investigate how to allow individuals [*who are not automatically enrolled in the plan to opt in*  
13 *to*] **who cannot enroll in the plan through an employer to enroll in** the plan and make contri-  
14 butions to an account, either through payroll contributions or another method of contribution.

15       (2) The board shall coordinate with the efforts of other states as those states pursue legal  
16 guidance for similar retirement savings programs.

17       **SECTION 4. This 2017 Act being necessary for the immediate preservation of the public**  
18 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
19 **on its passage.**

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