

SB173 INTRODUCED



1 SB173
2 N22R8TJ-1
3 By Senators Stewart, Hatcher, Coleman, Figures,
4 Coleman-Madison, Beasley, Singleton, Sessions, Williams,
5 Chesteen, Smitherman
6 RFD: Finance and Taxation General Fund
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SYNOPSIS:

Currently, there are Alabamians employed in the private sector that are not offered or provided a retirement plan through their employer. This bill would create a state facilitated retirement savings program to allow certain employed Alabamians to make contributions into a retirement plan.

A BILL
TO BE ENTITLED
AN ACT

Relating to private sector employers and employees; to create the Alabama Retirement Savings Program for the purpose of promoting greater retirement savings for private sector employees in a convenient, low cost, and portable manner.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature finds that there is a retirement savings access gap; Americans reach the median salary four years later than they did in 1980 and therefore have four fewer years of savings opportunities; and that one in six Americans retire in poverty. Employees who are unable to effectively build their retirement savings risk living on low incomes in their elderly years and are more likely to



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29 become dependent on state services. The Legislature further
30 finds that a state facilitated retirement savings program
31 would remove barriers to entry into the retirement market for
32 businesses by educating eligible employers on plan
33 availability and promoting, without mandated participation,
34 qualified, low-cost, and low-burden retirement savings
35 vehicles and without posing any significant financial burden
36 upon taxpayers. To this end, the legislation, upon
37 implementation will help close the retirement savings access
38 gap, protect the fiscal stability of the state and its
39 citizens well into the future, and will educate and promote
40 retirement saving among employees.

41 Section 2. For purposes of this act the following terms
42 have the following meanings:

43 (1) ALABAMA RETIREMENT SAVINGS PROGRAM or PROGRAM. The
44 retirement savings program created to connect eligible
45 employers and their employees with approved plans to increase
46 retirement savings.

47 (2) APPROVED PLANS. Retirement plans offered by the
48 Alabama Retirement Savings Program that meet the requirements
49 of this chapter.

50 (3) DEPARTMENT. The Alabama Department of Workforce.

51 (4) ELIGIBLE EMPLOYER. A self-employed individual, sole
52 proprietor, or an independently owned, for-profit enterprise
53 with 500 or fewer employees at the time of enrollment.

54 (5) ENROLLEE. Any employee who is voluntarily enrolled
55 in an approved plan offered by an eligible employer.

56 (6) FUND. The Alabama Retirement Savings Program Fund.



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57 (7) INDIVIDUAL RETIREMENT ARRANGEMENT. A retirement
58 savings account which allows employees to save for their
59 retirement by contributing pre-tax or after-tax dollars.

60 (8) PARTICIPATING EMPLOYER. Any eligible employer that
61 provides a payroll deposit retirement savings arrangement
62 provided under this act for its employees who are enrolled in
63 an approved plan offered through the Alabama Facilitated
64 Retirement Savings Program.

65 (9) QUALIFIED EMPLOYEE. Employees defined by the
66 federal Internal Revenue Service to be eligible to participate
67 in a specific qualified plan.

68 (10) SECRETARY. The Secretary of the Alabama Department
69 of Workforce.

70 (11) WAGES. Any compensation within the meaning of
71 Section 219(f)(1) of the Internal Revenue Code that is
72 received by an enrollee from a participating employer or
73 employee leasing company or professional employer organization
74 with which the enrollee's employer has an employee leasing
75 agreement.

76 Section 3. (a) A retirement savings program in the form
77 of an automatic enrollment payroll deduction IRA, known as the
78 Alabama Retirement Savings Program, shall be established and
79 administered by the Secretary of the Department of Workforce,
80 for the purpose of promoting greater retirement savings for
81 private sector employees in a convenient, low cost, and
82 portable manner.

83 (1) The Secretary of Workforce shall have the authority
84 to enter into contracts with other entities, including private



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85 financial institutions, to design, manage, invest, or
86 otherwise administer the program on behalf of the department.
87 Contracts for professional services entered into by the
88 Secretary shall be entered into by competitive sealed
89 proposals pursuant to division 3, commencing with Section
90 41-4-130 of Article 5 of Chapter 4 of title 41.

91 (2) The Alabama Retirement Savings Program Fund is
92 established as a special fund, separate and apart from all
93 public monies or funds of this state. The fund shall include
94 the individual retirement accounts of enrollees, which shall
95 be accounted for as individual accounts. Monies in the fund
96 shall consist of monies received from enrollees directly and
97 through participating employers pursuant to automatic payroll
98 deductions and contributions to savings made pursuant to this
99 act. The fund shall be operated in a manner determined by the
100 secretary exclusively for the purpose of this act without
101 liability on the part of the state beyond the amounts paid
102 into and earned by the fund, provided that the fund is
103 operated so that the accounts of enrollees established under
104 the program meet the requirements for IRAs under the Internal
105 Revenue Code.

106 (b) The amounts deposited in the fund shall not
107 constitute property of the state, and the fund shall not be
108 construed to be a department, institution, or agency of the
109 state. Amounts on deposit in the fund shall not be commingled
110 with State funds and the state shall have no claim to or
111 against, or interest in, such funds.

112 Section 4. Alabama Retirement Savings Administrative



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113 Fund is created in the State Treasury. The fund shall be
114 administered by the secretary of the department and used
115 exclusively for the purposes of this act. The department shall
116 use monies in this administrative fund to pay for the
117 administrative expenses it incurs in the performance of its
118 duties under this act. The department shall use monies in this
119 administrative fund to cover startup administrative expenses
120 it incurs in the performance of its duties under this act.
121 This administrative fund may receive grants or other monies
122 designated for administrative purposes from the state or any
123 unit of federal or local government or any other person, firm,
124 partnership, or corporation. Any interest earnings that are
125 attributable to monies in this fund shall be credited to this
126 administrative fund. All funds deposited or transferred into
127 this fund shall be budgeted and allocated in accordance with
128 Sections 41-4-80 through 41-4-96, Code of Alabama 1975, and
129 Sections 41-19-1 through 41-19-12, Code of Alabama 1975.

130 Section 5. (a) The department, secretary, and any other
131 agents or employees appointed or engaged by the Department of
132 Workforce and all persons serving as program staff shall
133 discharge their duties with respect to the program solely in
134 the interest of the program's enrollees and beneficiaries as
135 follows the duties of the Department of Workforce:

136 (1) By investing with the care, skill, prudence, and
137 diligence under the prevailing circumstances that a prudent
138 person acting in a like capacity and familiar with those
139 matters would use in the conduct of an enterprise of a similar
140 character and with similar aims; and



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141 (2) By using any contributions paid by employees
142 directly and through participating employers pursuant to
143 automatic payroll deductions and contributions into the fund
144 exclusively for the purpose of paying benefits to the
145 enrollees of the program, for the cost of administration of
146 the program, and for investments made for the benefit of the
147 program.

148 (b) The secretary shall ensure that the establishment
149 design and operation of the program is in a manner that meets
150 all of the following:

151 (1) Is in accordance with best practices for retirement
152 savings vehicles.

153 (2) Maximizes participation, savings, and sound
154 investment practices.

155 (3) Maximizes simplicity, including ease of
156 administration for participating employers and enrollees.

157 (4) Provides an efficient product to enrollees by
158 pooling investment funds.

159 (5) Ensures the portability of benefits.

160 (6) Provides for the deaccumulation of enrollee assets
161 in a manner that maximizes financial security in retirement.

162 Section 6. (a) In addition to the other duties and
163 responsibilities, the department may:

164 (1) Explore and establish investment options, subject
165 to Section 8, that offer employees returns on contributions
166 and the conversion of individual retirement savings account
167 balances to secure retirement income without incurring debt or
168 liabilities to the state.



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169 (2) Establish the process by which interest, investment
170 earnings, and investment losses are allocated to individual
171 program accounts on a pro rata basis and are computed at the
172 interest rate on the balance of an individual's account.

173 (3) Make and enter into contracts necessary for the
174 administration of the program and the fund, including, but not
175 limited to, retaining and contracting with investment
176 managers, private financial institutions, other financial and
177 service providers, consultants, actuaries, counsel, auditors,
178 third-party administrators, and other professionals as
179 necessary. Contracts for professional services entered into by
180 the department shall be entered into by competitive sealed
181 proposals pursuant to Division 3, commencing with Section
182 41-4-13 of Article 5 of Chapter 4 of Title 41.

183 (4) Conduct a review of the performance of any
184 investment vendors not less than once every two years,
185 including, but not limited to, a review of returns, fees, and
186 customer service and post a copy on an Internet website
187 established and maintained by the Department.

188 (5) Determine the number of staff members and duties
189 needed to administer the program.

190 (6) Ensure that monies in the Alabama Retirement
191 Savings Program Fund are held and invested as pooled
192 investments described in Section 8, with a view to achieving
193 cost savings through efficiencies and economies of scale;

194 (7) Evaluate and establish the process by which an
195 enrollee is able to contribute a portion of the enrollees
196 wages, a minimum of three percent, to the program for



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197 automatic deposit of those contributions and the process by
198 which the participating employer provides a payroll deposit
199 retirement savings arrangement to forward those contributions
200 and related information to the program, including, but not
201 limited to, contracting with financial service companies and
202 third-party administrators with the capability to receive and
203 process employee information and contributions for payroll
204 deposit retirement savings arrangements or similar
205 arrangements.

206 (8) Design and establish the process for enrollment by
207 an employee pursuant to Section 9, including the process by
208 which an employee can opt not to participate in the program,
209 select a contribution level, increase the contribution level,
210 select an investment option, such as a Traditional IRA or ROTH
211 IRA, and terminate participation in the program.

212 (9) Evaluate and establish the process by which an
213 individual may voluntarily enroll in and make contributions to
214 the program.

215 (10) Accept any grants, appropriations, or other monies
216 from the state, any unit of federal, state, or local
217 government or any other person, firm, partnership, or
218 corporation solely for deposit into the fund, whether for
219 investment or administrative purposes.

220 (11) Evaluate the need for, and procure as needed,
221 insurance against any and all loss in connection with the
222 property, assets, or activities of the program.

223 (12) Make provisions for the payment of administrative
224 costs and expenses for the creation, management, and operation



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225 of the program and keep annual administrative fees as low as
226 possible, but in no event shall annual administrative fees
227 exceed 0.6 percent of the fund's total balance, except that,
228 during the first three years after the establishment of the
229 program annual administrative fees may be set at not more than
230 0.75 percent of the funds total balance. Administrative fees
231 shall include any investment fees incurred pursuant to this
232 section. Subject to appropriation, the state may pay
233 administrative costs associated with the creation and
234 management of the program until sufficient assets are
235 available in the fund for that purpose. Thereafter, all
236 administrative costs of the program, including repayment of
237 any funds provided by the state, shall be paid only out of
238 monies on deposit therein, except that, private funds or
239 federal funding received under subdivision (10) in order to
240 implement the program shall not be repaid unless those funds
241 were offered contingent upon the promise of repayment.

242 (13) Allocate administrative fees to individual
243 retirement accounts in the program on a pro rata basis.

244 (14) Set a minimum employee contribution amount of
245 three percent.

246 (15) Facilitate education and outreach to employers and
247 employees, including the promotion of the benefits of
248 retirement savings and other information that promote
249 financial literacy necessary for sound financial
250 decision-making.

251 (16) Facilitate compliance by the program with all
252 applicable requirements for the program under the Internal



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253 Revenue Code, including tax qualification requirements or any
254 other applicable law and accounting requirements.

255 (17) Carry out the duties and obligations of the
256 program in an effective, efficient, and low-cost manner; and

257 (18) Exercise any and all other powers reasonably
258 necessary for the effectuation of the purposes, objectives,
259 and provisions of this act pertaining to the program.

260 Section 7. (a) The program administration shall
261 annually prepare and adopt a written statement of investment
262 policy that includes a risk management and oversight program.
263 The risk management and oversight program shall be designed to
264 ensure that an effective risk management system is in place to
265 monitor the risk levels of the program and to ensure that the
266 risks taken are prudent and properly managed, to provide an
267 integrated process for overall risk management, and to assess
268 investment returns as well as risk to determine if the risks
269 taken are adequately compensated compared to applicable
270 performance benchmarks and standards. The program
271 administration shall submit the statement of investment policy
272 and any changes in the investment policy to the secretary of
273 the department.

274 (b) An audited financial report, prepared in accordance
275 with generally accepted accounting principles, on the
276 operations of the program for each calendar year, shall be
277 submitted to the Secretary no later than July 1 of the
278 following year; The annual audit shall be made by an
279 independent certified public accountant and shall include, but
280 is not limited to, direct and indirect costs attributable to



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281 the use of outside consultants, independent contractors, and
282 any other persons who are not state employees for the
283 administration of the program.

284 (c) A report prepared by the Department of Workforce
285 shall include, but not be limited to, a summary of the
286 benefits provided by the program, the number of enrollees in
287 the program, the percentage and number of investment options,
288 rates of return, fees paid to any vendors or contractors for
289 purposes of implementing or operating the program, and other
290 information that is relevant to make a full, fair, and
291 effective disclosure of the operations of the program and the
292 funds.

293 (d) The department shall make available to the public
294 on its Internet website all reports provided to the
295 department. In addition to any other statements or reports
296 required by law, the department shall provide periodic reports
297 at least annually to: (i) participating employers, the names
298 of each enrollee employed by the participating employer, and
299 the contribution amounts made through the participating
300 employer on behalf of each enrolled employee from automatic
301 payroll deductions and contributions during the reporting
302 period; and (ii) enrollees, the balances in their program
303 accounts for the reporting period, including the allocation of
304 contributions and investment income to, and any withdrawals
305 made from their program accounts. The reports may include any
306 other information regarding the program as the secretary
307 determines is appropriate.

308 Section 8. (a) The secretary shall ensure that monies



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309 in the fund be invested or reinvested, as the case may be, in
310 compliance with any and all applicable federal and state laws,
311 rules, and regulations, as well as any and all rules or
312 regulations adopted by the department with respect to the
313 program and the investment of the fund, including, but not
314 limited to, the investment policy.

315 (b) The secretary may require the establishment of any
316 or all of the following investment options:

317 (1) A capital preservation fund, which prioritizes the
318 security of the deposit over the rate of return. If the
319 capital preservation fund is established, the department may
320 provide that the first one thousand dollars (\$1,000) in
321 contributions made by, or on behalf of, an enrollee shall be
322 deposited into the capital preservation fund and the
323 department may provide for an account revocation period during
324 which, if the enrollee chooses to end participation in the
325 program, the enrollee may withdraw the deposited amounts from
326 the capital preservation fund without penalty or.

327 (2) a life-cycle fund or.

328 (3) any other investment option deemed appropriate
329 by the secretary.

330 (c) The secretary may designate by rule or
331 regulation one of the investment options as the default
332 investment option for enrollees who fail to elect an
333 investment option and may, from time to time, amend, modify,
334 or repeal such investment options as it deems necessary or
335 proper and may subsequently select, by rule or regulation, a
336 different investment option as the default investment option.



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337 Section 9. (a) The program shall be implemented, and
338 the enrollment of employees shall begin, within 24 months
339 after the effective date of this act. The Secretary of
340 Workforce may extend the time period within which the program
341 is implemented and enrollment of employees begins, but not by
342 more than 12 months. The program shall be implemented in two
343 phases based on the size of the employers participating, as
344 measured by the number of employees per employer, with the
345 program implemented sooner for larger employers. The following
346 provisions of this section shall be in force after the program
347 opens for enrollment.

348 (b) Each employer shall establish a payroll deposit
349 retirement savings arrangement to allow each employee to
350 participate in the program not more than nine months after the
351 program opens for enrollment.

352 (c) Employers shall automatically enroll in the program
353 each employee who has not opted out of participation in the
354 program and shall provide payroll deposit retirement savings
355 arrangements for participating employees and, on behalf of the
356 employees, remit payroll deduction contributions to the
357 program. Eligible employers shall provide payroll deposit
358 retirement savings arrangements for each employee who elects
359 to participate in the program.

360 (d) Enrollees shall have the ability to select a
361 contribution level into the fund. This level may be expressed
362 as a percentage of wages or as a dollar amount up to the
363 deductible amount for the enrollee's taxable year under
364 Section 219(b)(1)(A) of the Internal Revenue Code. Enrollees



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365 may change their contribution level no more than once every
366 calendar quarter, subject to rules and regulations adopted by
367 the Secretary and Department of Workforce, as long as the
368 contributions do not cause the enrollee's total contributions
369 to IRAs for the year to exceed the deductible amount for the
370 enrollee's taxable year under Section 219(b)(1)(A) of the
371 Internal Revenue Code.

372 (e) Following initial implementation of the program
373 pursuant to this section, at least once every year,
374 participating employers shall designate an open enrollment
375 period during which employees who previously opted out of the
376 program may enroll in the program.

377 (f) (1) For any employee hired by an employer more than
378 six months after the program opens for enrollment, the
379 employer shall enroll the employee in the program no later
380 than three months following the date of hire of the employee,
381 unless the employee opts out of enrollment in the program.

382 (2) Any newly hired employee who has previously been
383 enrolled in the program shall have the option of making direct
384 contributions into that employees existing account, provided
385 that subdivision paragraph (1) also applies to the employer of
386 a newly hired employee who has been previously enrolled in the
387 program.

388 (g) An employee who opts out of the program who
389 subsequently wants to participate through the participating
390 employer's payroll deposit retirement savings arrangement may
391 only enroll during the participating employer's designated
392 open enrollment period or if permitted by the participating



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393 employer at an earlier time.

394 (h) An employee may terminate his or her participation
395 in the program at any time in a manner prescribed by the
396 secretary.

397 (i) The department may establish and maintain an
398 Internet website designed to assist employers in identifying
399 private sector providers of retirement arrangements that can
400 be set up by the employer rather than allowing employee
401 participation in the program under this act. The department
402 shall provide public notice of the availability of and the
403 process for inclusion on the Internet website before it
404 becomes publicly available.

405 (j) Each employer is responsible for the tasks
406 described in subsections (b) and (c), but the employer is
407 permitted to contract with a third party, such as a payroll
408 service provider or a professional employer organization, to
409 perform those tasks on behalf of the employer.

410 Section 10. (a) Participating employers shall not have
411 any liability for an employee's decision to participate in or
412 opt out of the program or for the investment decisions of the
413 department or of any enrollee.

414 (b) The program is not an employer-sponsored plan and
415 is not operated or administered by the employer. A
416 participating employer shall not be a fiduciary, or considered
417 to be a fiduciary, over the program and shall not be liable
418 with regard to investment returns, program design, and
419 benefits paid to the program participants. A participating
420 employer shall not bear responsibility for the administration,



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421 investment, or investment performance of the program or for
422 any required or permitted communications between participating
423 employees and program administrators.

424 Section 11. (a) If any clause, sentence, paragraph,
425 section, or other part of this act shall be adjudged by any
426 court of competent jurisdiction to be invalid, including any
427 judgment made that the part is unconstitutional, invalid, or
428 inoperative, the judgment shall not affect, impair, or
429 invalidate the remainder of this act but shall be confined in
430 its operation to the clause, sentence, paragraph, section, or
431 other part directly involved in the controversy in which the
432 judgment shall have been rendered.

433 (b) Notwithstanding the provisions of any other law to
434 the contrary, the value of assets in an individual's account
435 under the program shall not be regarded as assets for the
436 purposes of determining eligibility for benefits or the amount
437 of benefits to be provided pursuant to any state or federal
438 law, except that, if the federal law expressly requires that
439 the assets in the accounts be regarded as assets for those
440 purposes, the assets may be taken into consideration when
441 determining eligibility benefits or the amount of benefits.
442 Provided further that, if the federal law provides discretion
443 to the state in setting standards regarding the amount of
444 assets which may be disregarded in determining benefits, or
445 other factors regarding the assets which impact the
446 eligibility for, or amount of, benefits, the state shall, with
447 respect to assets in the assets in the accounts under the
448 program, set standards which are as favorable as the federal



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449 law permits for the individuals with the accounts.

450 Section 12. This act shall become effective on June 1,

451 2025.