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# Republicans in Congress try to sabotage state-sponsored retirement savings plans — before they begin

By Don McIntosh

Hardly anyone knows about them yet, but a batch of state-sponsored retirement savings plans is about to make it easier for millions of American workers to save for retirement. Republicans in Congress are trying to stop that from happening.

The plans are in the process of being set up in Oregon, Illinois, California, Connecticut and Maryland. It's a union idea, passed by state legislatures with union support, as a way to help mostly nonunion workers whose employers don't offer any retirement plan. The way the plans work, the state sets up a retirement savings fund, to be invested in a simple, diversified portfolio by low-fee managers, and then requires employers who don't otherwise offer a retirement savings plan to enroll their employees. Employees contribute a certain percentage of gross pay into the fund, up to the IRA maximum of \$5,500 a year. The balances grow, and can be accessed for retirement, essentially like a Roth IRA. If workers don't want to contribute the mandated amount,

they can reduce their contribution, or opt out entirely.

Who would object to such plans? High-fee investment advisers, it turns out, and anti-worker business groups like the U.S. Chamber of Commerce. Never mind states' rights; opponents think they've found a backdoor way to stop the plans from going forward. It has to do with whether the plans run afoul of ERISA, a 1973 federal law that protects workers from having their retirement savings stolen or improperly invested by employers. At the request of states setting up the new savings plans, last year the Employee Benefits Security Administration of the U.S. Department of Labor issued a ruling making it clear that these new plans are *not* employer-sponsored retirement plans that would fall under ERISA. The state plans aren't set up or controlled by employers, so employers should have no fiduciary responsibility for them under ERISA.

But under the 1996 Congressional Review Act, a new Congress can override federal regulations that finalized less than 60

legislative days before the old Congress adjourned (in this case, any since June 13, 2016.)

HJR 66, a bill to overturn the Labor Department rule, passed the U.S. House Feb. 15 on a party line 231-193 vote, with only one Democrat in favor, and only three Republicans against. Oregon Republican Greg Walden voted in favor of the legislation, which could result in legal headaches for Oregon's new retirement savings plan. Walden's office did not return a call from the Labor Press seeking an explanation of his vote.

The bill is now before the U.S. Senate Finance Committee as SJR 32, sponsored by chair Orrin Hatch (R-Utah).

"We have millions of people approaching their retirement years without adequate savings, and some pretty simple state plans that are just going to help people save for retirement are being threatened by this rollback," said SEIU Oregon State Council Executive Director Matt Swanson, who helped pass the Oregon plan. "It's nothing more than a big giveback to Wall Street."

If the resolution passes the

Senate and is signed by President Donald Trump, it could stall the plans in several states where legislation specifically relied on the Labor Department ruling. But Oregon's plan will go forward regardless, Oregon Treasury spokesperson James Sinks told the Labor Press. An appointed board has been working on setting up the Oregon plan since legislation passed in 2015. Retired Iron Workers Local 29 business manager Kevin Jensen was labor's voice on the board through January, and United Food and Commercial Workers Local 555 President Dan Clay will replace him this month. (See Page 6.)

Oregon's plan will phase in, starting with a voluntary pilot group of employers on July 1, expanding to employers with 10 or more workers in 2018, and to all employers in 2019. At that point, as many as 800,000 Oregon workers would have access to the program, with the default savings rate set at 5 percent.

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