Blueprint for Opportunity

No. 25

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Implementation Memo

TO: Governor-elect Ritter
Members of the 66th Colorado General Assembly

FROM: The Bell Policy Center – Rich Jones, Director of Policy and Research

DATE: December 4, 2006

RE: Implementing Bell's Blueprint recommendation No. 25 to encourage employers to automatically enroll workers in pension plans

In the 2006 Blueprint for Opportunity, the Bell Policy Center recommends:

Encourage Colorado employers to automatically enroll workers in 401(k) pension plans.

Colorado's political, business and community leaders should encourage employers to use automatic enrollment for 401(k) pension plans. We should also educate workers about the value of participating in these plans and of increasing contributions over time to meet retirement needs.

Automatic enrollment is allowed under federal law, and pension reform legislation passed by Congress in August provides additional incentives to do so. *(See Blueprint, page 35.)*

This memorandum briefly discusses the issues surrounding this proposal, describes steps for implementing it, outlines some of the factors to consider and lists sources for additional information and resources.

If you are interested in pursuing this issue further, we are prepared to work with you. Please contact Rich Jones, director of policy and research, at (303) 297-0456 or jones@thebell.org.

Overview of the issue

In 2001, 60 percent of workers covered by an employer sponsored pension plan were offered this benefit in the form of a 401(k) defined contribution plan. Most of these plans require workers to sign up to participate. A 2005 report from the U.S. Bureau of Labor Statistics shows that one in five workers who have access to a 401(k) do not participate.[1] Automatically enrolling workers, while giving them the choice to opt out, increases the number of workers who participate in these plans. In particular, this approach significantly boosts participation by low-wage workers.

Because the federal government has exclusive authority to set pension requirements for private employers under the Employee Retirement Income Security Act of 1974 (ERISA), states cannot mandate that companies automatically enroll employees in 401(k) plans.

However, many companies are beginning to adopt this practice and the federal pension reform legislation passed by the Congress in August provides incentives for companies to take this approach. It includes a provision that ensures automatic payroll deductions would not violate state wage garnishment laws.[2]

Implementation steps

State government can play a role in encouraging employers to offer automatic enrollment in their 401(k) plans. It can provide educational materials to employers and workers describing the value of this approach, and it can track the progress made by companies toward this goal.

To encourage companies to offer automatic enrollment, the governor could bring together representatives from Colorado's major employers, business associations such as the Colorado Association of Commerce and Industry and the National Federation of Independent Businesses, the American Association of Retired Persons and human resource professionals to discuss the value of this approach and gain their cooperation in promoting it statewide.

The governor along with the legislature, major business associations, unions and community groups could sponsor a conference and host workshops on the issue where business owners, workers and community leaders could learn more about the idea and how it could work for them.

Staff within the governor's office could work with businesses, trade associations, chambers of commerce and other groups to disseminate information to firms throughout the state, encouraging them to offer automatic enrollment. The governor's media office could also encourage media coverage of the issue.

The Legislature should pass legislation amending CRS 8-4-105 and 8-9-107, specifically authorizing employers to deduct wages as part of automatic enrollment provisions in their 401(k) plans. Currently the statutes list deductions employers can make if authorized by the employee.

The legislature could pass legislation giving companies who automatically enroll their employees in a 401(k) plan an advantage when applying for grants issued by the Economic Development Commission.

The legislature could participate with the governor in calling on state employers to automatically enroll their workers in 401(k) plans. It could also co-sponsor the conference on this issue and pass a resolution encouraging employers to offer automatic enrollment.

Factors to consider

Because federal law pre-empts states from requiring private employers to take specific actions relative to their pension plans, state officials are limited to persuading companies to act.

Some people who oppose state intervention in private business decisions could object to state officials and employees spending time and state funds on this effort. However, the costs of educational materials are minimal and conference costs could be covered through private sector donations.

Information and resources

- The Automatic 401(k): A Simple Way to Strengthen Retirement Savings, The Retirement Savings Project, The Brookings Institution, March 2005.
- Automatic 401(k)s: A Win for Workers, Brief Analysis #567, National Center for Policy Analysis, Aug. 15, 2006.
- Automatic Enrollment in 401(k) Plans, Congressional Research Service, Aug. 9, 2006.
- Automatic 401(k) Overview for Employers, AARP.
- The 401(k) of the Future, The Wall Street Journal, Aug. 5, 2006.
- On Making Enrollment in a 401(k) Automatic, The New York Times, Aug. 19, 2006.
- Automatic 401(k) is key to America's financial future, Jack Kemp, Sept. 11, 2006.

End Notes

[1] United States Bureau of Labor Statistics, Employee Benefits In Private Industry, March 2006.

[2] Making Retirement Savings Automatic, Jonathan Peterson, *The Los Angeles Times*, Aug. 7, 2006.