



The Keystone Research Center  
412 North Third Street  
Harrisburg PA 17101  
[www.keystoneresearch.org](http://www.keystoneresearch.org)

September 29, 2016

Office of Regulations and Interpretations  
Employee Benefits Security Administration  
Room N-5655  
U.S. Department of Labor  
200 Constitution Avenue N.W.  
Washington, DC 20210  
**VIA E-MAIL:** [e-ORI@dol.gov](mailto:e-ORI@dol.gov)

**RE: Savings Arrangements Established by State Political Subdivisions for Non-Governmental Employees (RIN 121G-A876)**

Dear Secretary Perez and Assistant Secretary Borzi:

I am writing to express my support for the proposed rule RIN 1210-4876, which would provide a safe harbor under the Employee Retirement Income Security Act ("ERISA") for auto-IRA programs established by political subdivisions such as cities. As the director of a Pennsylvania think tank the mission of which is to promote prosperity and equity, the erosion of retirement security in the private sector has been a concern of ours since about 2000. In fact, as early as the 2003 and 2004 session our advocacy led to the introduction of a legislative forerunner of today's "Retirement Security for All" proposals, a bill to establish "Pennsylvania Voluntary Accounts" through which private sector workers could save for retirement. As established at Philadelphia City Council in June of this year, the erosion of retirement security is especially a challenge in the city.

The proposed rule would assist employers and employees by allowing cities to create plans that would automatically enroll them into an IRA plan unless they opt out.' By including local governments, local policymakers will gain a tool that may be able to help them to address the serious issue of retirement security that is facing our communities.

The Department of Labor has legitimate concerns that small local governments may lack the scale, expertise, and experience to effectively manage a retirement savings program. To address this concern the Department could amend paragraph(4)(ii) so that automatic qualification is reserved for political subdivisions that have populations greater than or equal to the smallest state, and sponsor one or more retirement plans for their own employees. If a political subdivision meets one of these criteria but not both (population or retirement plan sponsorship), it can petition the Department for access to the safe harbor.

The Department also has legitimate concerns that local government programs might overlap or be duplicative of state operated programs, per Paragraph (hX4)(iii). At present, the Commonwealth of Pennsylvania has no active plan to create a Secure Choice-type program; in 2015 the General Assembly passed a resolution calling on the state's Legislative Budget and Finance Committee to study the issue,

but to date that resolution has failed to get out of the Finance committee. In short, there does not seem to be an option on the horizon in our state that would address the needs of workers whose employers do not have or are not seeking to establish savings plans. Nevertheless, colleagues in other cities have expressed concern that the rule would leave room for state government to block implementation of a local plan, even when the state has no plan of its own. I hope the Department will consider leaving room for cities to develop plans unless there is a truly duplicative state plan.

I should also add that I was pleased to read Footnote 5 in the proposed rule, which appears to extend the rationale in the November 18, 2015 Interpretive Bulletin RIN L210-A874 allowing states to create Multi-Employer Plans ("MEPs") to political subdivisions such as cities. The MEP option would allow cities to create citywide ERISA-covered plans such as 401(k)s, which could lower costs for employer participation through economies of scale and reduction of administrative costs, since a state-sponsored MEP would be considered a single ERISA plan for purposes of reporting. Such an arrangement would also allow for employer contributions, among other advantages.

I believe it is worth allowing major municipalities a range of options to create retirement savings program for workers that do not have access to employer sponsored plans. I applaud the USDOL for proposing to allow cities like Philadelphia to exercise that option.

Within Pennsylvania, Philadelphia is a leader in worker protection. It was the first Pennsylvania city to mandate paid sick leave. It also created a minimum wage standard of \$12 an hour for all city-funded contracts and subcontracts. With your leadership and further support, Philadelphia will be able to lead on the issue of retirement security, in the process providing a model for Pennsylvania as a whole. In Pennsylvania and across the country, if we are to establish a social contract for the 21<sup>st</sup> century, we need more "laboratories of democracy" not just the 50 states.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Stephen Herzenberg", written over a light gray rectangular background.

Stephen Herzenberg  
Executive Director