

HB1378/273598/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 1378

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “Frick” insert “, Carr, Frush, Hixson, Kaiser, Kelly, Korman, Krimm, Lisanti, Luedtke, McCray, Morhaim, Patterson, Queen, Reznik, Shoemaker, Stein, A. Washington, K. Young, Brooks, Clippinger, Glenn, Valderrama,”; in line 4, strike “eligible”; strike beginning with the first comma in line 8 down through “employer;” in line 13 and substitute “; authorizing the Board to enter into a certain agreement to borrow certain funds; requiring the Board to take certain actions to ensure that the Program is not preempted by federal law; requiring the Board to establish certain procedures and disclosures; requiring the Board to design and disseminate certain information to employers and employees; requiring the Board to enter into a certain agreement delegating the administration of the Trust to a third-party administrator; limiting the type of savings arrangements offered by the Board to payroll deposit IRA arrangements; requiring the Board to implement a range of investment options and providers and to select a default investment option; requiring the Board to consider certain information when selecting investment options; authorizing the Board to provide investment options that provide certain income distributions; limiting the ongoing administrative expenses of the Program from exceeding a certain amount; prohibiting the Board from offering investment options that conflict with federal law; prohibiting the Board from offering investment options that could result in certain liabilities; requiring a covered employer to establish a certain payroll deposit retirement savings arrangement, and to automatically enroll covered employees in the Program; prohibiting a covered employer from receiving a certain fee waiver if the covered employer is not in compliance with certain provisions of this Act; establishing that compliance with this Act does not create a certain fiduciary obligation; establishing that a covered employee may opt out of the Program, and re-enroll if the employee has opted out;”; in line 13, strike “eligible”; in line 14, after “manner;” insert “requiring the Board to establish a default employee contribution amount;”; in line 16, strike “employers” and substitute “employers, taxpayers;”; in line 20, strike “processing”; and in line 21, after

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“circumstances;” insert “prohibiting the waiver of a certain filing fee under this Act until the Program is open for enrollment;”.

AMENDMENT NO. 2

On page 2, after line 10, insert:

“Preamble

WHEREAS, It shall be the policy of the State to assist the Maryland workforce in identifying the need to save for retirement, learning about products and services available in the private sector to accumulate retirement savings, promoting the efforts of employers to adopt retirement plans for employees, and assisting employees who do not have access to an employer-offered savings arrangement to initiate individual retirement accounts; and

WHEREAS, It is the intent of the General Assembly that the Maryland Small Business Retirement Savings Board will outsource the administration and management of the funds on behalf of the program participants, and at no point will the funds be managed directly by the Board; and

WHEREAS, Management of the separate accounts shall be performed by private entities selected by the Board that are licensed and in good standing with the State; now, therefore;”.

On page 3, strike beginning with “NONREFUNDABLE” in line 2 down through “PROCESSING” in line 3 and substitute “FILING”; in line 6, after “IS” insert “REQUIRED TO COMPLY WITH AND IS”; in line 11, strike “EMPLOYER-SPONSORED RETIREMENT PLAN” and substitute “EMPLOYER-OFFERED SAVINGS ARRANGEMENT”; strike beginning with “THE” in line 11 down through “ACT” in line 12 and substitute “FEDERAL LAW”; in line 22, strike “ELIGIBLE” and substitute “COVERED”; in the same line, strike “A PERSON” and substitute “AN INDIVIDUAL”; in line 23, strike “AN

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ELIGIBLE” and substitute “**A COVERED**”; strike beginning with “**OR**” in line 23 down through “**TITLE**” in line 24; and in line 25, strike “**ELIGIBLE**” and substitute “**COVERED**”.

On page 4, strike beginning with “**OR**” in line 2 down through “**YEARS**” in line 5; in line 11, strike “**ELIGIBLE**” and substitute “**COVERED**”; strike beginning with the colon in line 13 down through “**(II)**” in line 17; in line 17, strike “**ELIGIBLE**” and substitute “**COVERED**”; in line 19, strike “**ELIGIBLE**” and substitute “**COVERED**”; in line 26, strike “**EMPLOYER-SPONSORED RETIREMENT PLAN**” and substitute “**EMPLOYER-OFFERED SAVINGS ARRANGEMENT**”; and in line 29, strike “**TERMINATED AN EMPLOYER-SPONSORED RETIREMENT PLAN**” and substitute “**OFFERED AN EMPLOYER-OFFERED SAVINGS ARRANGEMENT**”.

On page 5, in line 7, strike “**AND OFFERED**”; in line 9, strike “**ELIGIBLE**”; in line 10, strike “**ELECTS TO PARTICIPATE IN**” and substitute “**IS PARTICIPATING IN THE PROGRAM THROUGH**”; in line 11, strike “**UNDER THIS TITLE FOR ELIGIBLE EMPLOYEES**” and substitute “**IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD**”; in line 12, strike “**AN ELIGIBLE**” and substitute “**A COVERED**”; in line 14, strike “**ELIGIBLE**” and substitute “**COVERED**”; in line 16, strike “**AN**” and substitute “**A COVERED**”; and strike beginning with “**A**” in line 17 down through “**PROGRAM**” in line 18 and substitute “**THE PROGRAM**”.

On page 6, after line 29, insert:

“(3) CONSISTENT WITH ITS FIDUCIARY DUTIES, THE BOARD MAY ENTER INTO AN AGREEMENT TO BORROW FUNDS FROM THE STATE OR ANY OTHER ENTITY TO PROVIDE FUNDING FOR THE OPERATION OF THE PROGRAM UNTIL THE PROGRAM CAN GENERATE SUFFICIENT FUNDING FOR OPERATIONS THROUGH FEES ASSESSED ON PROGRAM ACCOUNTS.”

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On page 7, in line 8, strike “INVESTING” and substitute “SELECTING INVESTMENT OPTIONS OR PROGRAMS THAT WILL INVEST”; in line 16, after “SHALL” insert “CONSIDER INVESTMENT OPTIONS OR PROGRAMS THAT WILL SEEK TO”; in line 25, after “POWERS” insert “AND DUTIES”; in line 26, strike “MAY”; in line 27, before “CAUSE” insert “SHALL”; and in line 30, before “APPOINT” insert “SHALL”.

On page 8, in line 1, before “EMPLOY” insert “SHALL”; in line 3, before “MAKE” insert “SHALL”; in line 5, before “EVALUATE” insert “SHALL”; strike beginning with “ELIGIBLE” in line 5 down through “CONTRIBUTIONS” in line 8 and substitute “EMPLOYEE TO CONTRIBUTE AUTOMATICALLY TO THE PROGRAM”; in line 9, before “EVALUATE” insert “SHALL”; in line 11, strike “ELIGIBLE” and substitute “COVERED”; in line 17, before “DESIGN” insert “SHALL”; in line 19, before “EVALUATE” insert “SHALL”; strike beginning with “THE” in line 19 down through “EMPLOYEES” in line 21 and substitute “A RANGE OF INVESTMENT OPTIONS, INCLUDING A DEFAULT INVESTMENT SELECTION FOR EMPLOYEES’ PAYROLL DEPOSIT IRAS”; in line 22, before “PROCURE” insert “SHALL”; strike beginning with the second “AND” in line 24 down through “RETURN” in line 25; in line 26, before “PROCURE” insert “SHALL”; in line 29, before “SET” insert “SHALL”; and in line 32, before “ARRANGE” insert “MAY”.

On page 9, in line 3, before “DETERMINE” insert “SHALL”; strike beginning with “EACH” in line 3 down through “TRUST” in line 5 and substitute “INDIVIDUAL RETIREMENT ACCOUNTS”; in line 6, before “EXPLORE” insert “SHALL”; in line 10, strike “IF NECESSARY,” and substitute “SHALL”; in line 11, after “PROGRAM;” insert “AND”; in line 12, before “EVALUATE” insert “MAY”; in line 12, strike “ELIGIBLE”; strike beginning with the semicolon in line 14 down through “ACCOUNTS” in line 16; in line 17, after “REGULATIONS” insert “AND TAKE ANY OTHER ACTION”; after line 21, insert:

“(C) THE BOARD SHALL TAKE ANY ACTION NECESSARY TO ENSURE THAT THE PROGRAM IS NOT PREEMPTED BY FEDERAL LAW.”;

in line 23, after “(A)”, insert:

“THE BOARD SHALL ESTABLISH PROCEDURES AND DISCLOSURES TO PROTECT THE INTERESTS OF PARTICIPANTS AND EMPLOYERS.”

(B)”;

in line 24, strike “AN EMPLOYEE” and substitute “AND EMPLOYEES”; in line 25, strike “PACKET” and substitute “REGARDING THE PROGRAM”; in line 26, strike “PACKET” and substitute “INFORMATION PROVIDED”; strike beginning with “EMPLOYEES.” in line 27 down through “INCLUDE:” in line 28 and substitute “EMPLOYEES, INCLUDING:”; and in line 29, strike “(1)” and substitute “(I)”.

On page 10, in line 1, strike “(2)” and substitute “(II)”; in line 3, strike “(3)” and substitute “(III)”; in line 4, strike “(4)” and substitute “(IV)”; in the same line, strike “AND”; in line 5, strike “(5)” and substitute “(V)”; in the same line, after “PROGRAM” insert “; AND”

(VI) INFORMATION ABOUT ALTERNATIVE RETIREMENT SAVINGS OPTIONS”;

and strike beginning with “EMPLOYER-SPONSORED” in line 12 down through “PLAN” in line 13 and substitute “EMPLOYER-OFFERED SAVINGS ARRANGEMENT”.

On pages 10 and 11, strike in their entirety the lines beginning with line 16 on page 10 through line 7 on page 11, inclusive, and substitute:

“(D) THE BOARD SHALL ESTABLISH PROCEDURES FOR:

(Over)

(1) A COVERED EMPLOYEE TO OPT OUT OF PARTICIPATION IN THE PROGRAM;

(2) A PARTICIPATING EMPLOYEE TO OPT OUT OF PARTICIPATION IN THE PROGRAM AFTER THE PARTICIPATING EMPLOYEE HAS COMMENCED PARTICIPATION; AND

(3) AN EMPLOYEE WHO HAS OPTED OUT OF PARTICIPATION TO PARTICIPATE OR RESUME PARTICIPATION IN THE PROGRAM.”.

On page 11, in line 22, after “(B)” insert “**(1)**”; and after line 25, insert:

“(2) THE BOARD SHALL ENTER INTO AN AGREEMENT DELEGATING THE ADMINISTRATION OF THE TRUST TO A THIRD-PARTY ADMINISTRATOR.”.

On page 12, in line 2, strike “(1)”; in the same line, after “ESTABLISH” insert “, **BY REGULATION,**”; strike in their entirety lines 4 through 10, inclusive; in line 16, after “SHALL” insert “**ONLY**”; after line 17, insert:

“(C) THE BOARD SHALL:

(1) IMPLEMENT A RANGE OF INVESTMENT OPTIONS AND PROVIDERS; AND

(2) SELECT A DEFAULT INVESTMENT OPTION FOR PROGRAM PARTICIPANTS.

(D) WHEN SELECTING INVESTMENT OPTIONS, THE BOARD SHALL CONSIDER METHODS TO MINIMIZE THE RISK OF SIGNIFICANT INVESTMENT LOSSES AT THE TIME OF A PARTICIPATING EMPLOYEE’S RETIREMENT.

(E) THE BOARD MAY PROVIDE AN INVESTMENT OPTION THAT PROVIDES AN ASSURED LIFETIME INCOME.

(F) (1) THE BOARD SHALL CONSIDER INVESTMENT OPTIONS THAT MINIMIZE ADMINISTRATIVE EXPENSES.

(2) ONGOING ANNUAL ADMINISTRATIVE EXPENSES MAY NOT EXCEED 0.5% OF ASSETS UNDER MANAGEMENT IN THE PROGRAM.

(G) THE BOARD MAY NOT OFFER ANY INVESTMENT OPTIONS THAT CONFLICT WITH FEDERAL LAW.

(H) THE BOARD MAY NOT OFFER ANY INVESTMENT OPTIONS THAT COULD RESULT IN LIABILITY TO THE STATE OR ITS TAXPAYERS.”;

strike in their entirety lines 18 through 23, inclusive; in line 25, after “(A)” insert “(1)”; and in the same line, strike “ELIGIBLE” and substitute “COVERED”.

On page 13, strike beginning with “(B)” in line 1 down through “BOARD” in line 10 and substitute:

“(2) A COVERED EMPLOYER SHALL AUTOMATICALLY ENROLL A COVERED EMPLOYEE IN THE PROGRAM, UNLESS THE EMPLOYEE ELECTS TO OPT OUT IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD.

(B) IF A COVERED EMPLOYER IS NOT IN COMPLIANCE WITH SUBSECTION (A) OF THIS SECTION, THE COVERED EMPLOYER MAY NOT RECEIVE A WAIVER OF THE FILING FEE UNDER § 1-203(B)(14) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE”;

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in line 12, strike “EMPLOYER-SPONSORED RETIREMENT PLAN” and substitute “EMPLOYER-OFFERED SAVINGS ARRANGEMENT”; after line 17, insert:

“(D) COMPLIANCE WITH THIS TITLE AND PARTICIPATION IN THE PROGRAM BY ITSELF DOES NOT CREATE A FIDUCIARY OBLIGATION OF AN EMPLOYER WITH RESPECT TO THE OPERATION OF THE PROGRAM OR FUNDS CONTRIBUTED TO THE PROGRAM.

12-403.

(A) A COVERED EMPLOYEE OF A PARTICIPATING EMPLOYER MAY ELECT TO OPT OUT OF THE PROGRAM.

(B) A COVERED EMPLOYEE OF A PARTICIPATING EMPLOYER WHO ELECTS TO OPT OUT OF THE PROGRAM MAY RE-ENROLL IN THE PROGRAM IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD.”;

in line 18, strike “(D)” and substitute “(C)”; in the same line, strike “ANY” and substitute “AN”; in line 19, strike “ELIGIBLE”; in line 20, strike “AT ANY TIME IN A MANNER PRESCRIBED” and substitute “AS AUTHORIZED”; in line 22, strike “(E)” and substitute “(D)”; strike beginning with “AND” in line 23 down through “FORM” in line 24; in line 25, strike “(F)” and substitute “(E)”; in line 26, strike “3%” and substitute “A FIXED PERCENTAGE OR DOLLAR AMOUNT”; in the same line, strike “ANNUAL”; in line 28, strike “(G)” and substitute “(F)”; in the same line, after “BOARD” insert “SHALL SET AND”; in the same line, before “CONTRIBUTION” insert “DEFAULT”; and in line 29, strike “(F)” and substitute “(E)”.

On page 14, in line 15, strike “TRUST AND” and substitute “BOARD, TRUST, OR”; in line 28, after “the” insert “Board shall obtain an opinion from its counsel or from

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the federal government that the plan, trust, administrative arrangement, investment offerings, and"; strike beginning with the comma in line 31 down through "Act" in line 33; and after line 33, insert:

"SECTION 4. AND BE IT FURTHER ENACTED, That the filing fee under § 1-203(b)(3)(ii) of the Corporations and Associations Article may not be waived in accordance with this Act until the Maryland Small Business Savings Program is open for enrollment."

On page 15, in line 1, strike "4." and substitute "5.".