

Chapter 596

(Senate Bill 1001)

AN ACT concerning

Employee Benefits – State Employee and Retiree Health and Welfare Benefits Program and Maryland Small Business Retirement Savings Program – Revisions

FOR the purpose of altering the entities for which the State Department of Assessments and Taxation is required to waive a certain filing fee; designating the Maryland Small Business Retirement Savings Board as a body politic and corporate and an instrumentality of the State; providing that, except under certain circumstances, the Board is not subject to any law that affects governmental units; authorizing the appointing authority, rather than the Governor, to remove a member of the Maryland Small Business Retirement Savings Board; altering a requirement related to the preparation, adoption, and review of a written statement of investment policy; authorizing, rather than requiring, the Maryland Small Business Retirement Savings Board to procure certain insurance; authorizing the Maryland Small Business Retirement Savings Board to evaluate and establish a process by which a noncovered employer or a self-employed individual may enroll in and make contributions to the Maryland Small Business Retirement Savings Program; ~~altering the definition of “qualifying nonprofit organization” to include the Program for the purposes of certain provisions of law governing the enrollment and participation of certain employees in the State Employee and Retiree Health and Welfare Benefits Program~~ requiring the Secretary of Budget and Management to make certain ongoing eligibility determinations regarding the State Employee and Retiree Health and Welfare Benefits Program; authorizing the Maryland Small Business Retirement Savings Board to enroll and participate in the State Employee and Retiree Health and Welfare Benefits Program; requiring the Maryland Small Business Retirement Savings Board to pay certain costs and a certain fee and determine the extent to which the Board will subsidize certain participation; authorizing Maryland Small Business Retirement Savings Board employees who have been determined by the State Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans to be eligible under the federal Internal Revenue Code to participate in a certain deferred compensation plan; defining a certain term; making conforming changes; and generally relating to the Maryland Small Business Retirement Savings Program.

BY repealing and reenacting, with amendments,
 Article – Corporations and Associations
 Section 1–203(b)(14)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2017 Supplement)

BY adding to

Article – Labor and Employment
 Section 12–101(e)
 Annotated Code of Maryland
 (2016 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
 Article – Labor and Employment
 Section 12–101(e) through (k), 12–201(a) and (e), 12–203(b)(1), 12–204(a)(9) and (16),
 and 12–402(c)
 Annotated Code of Maryland
 (2016 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section ~~2–512(a)~~ 2–503(a) and 35–602
 Annotated Code of Maryland
 (2015 Replacement Volume and 2017 Supplement)

BY adding to
Article – State Personnel and Pensions
Section 2–515.2
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 35–101(a) and (b)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Corporations and Associations

1–203.

(b) (14) The Department shall waive the filing fee for a business entity described under paragraph (3)(ii) of this subsection for each year that the entity provides evidence to the Department that:

(i) The entity is required to comply with and is in compliance with Title 12 of the Labor and Employment Article; or

(ii) The entity otherwise provides [an automatic enrollment payroll deduction individual retirement account or individual retirement annuity under 26 U.S.C.

§ 408(a) or (b) or] an employer–offered savings arrangement, **AS DEFINED IN § 12–101(E) OF THE LABOR AND EMPLOYMENT ARTICLE**, that is in compliance with federal law.

Article – Labor and Employment

12–101.

(E) “EMPLOYER–OFFERED SAVINGS ARRANGEMENT” INCLUDES ANY OF THE FOLLOWING ~~IF IN COMPLIANCE WITH FEDERAL LAW~~:

- (1) AN IRA;**
- (2) A DEFINED BENEFIT PLAN;**
- (3) A 401(K);**
- (4) A SIMPLIFIED EMPLOYEE PENSION (SEP) PLAN;**
- (5) A SAVINGS INCENTIVE MATCH PLAN FOR EMPLOYEES (SIMPLE) PLAN; OR**
- (6) ANOTHER ARRANGEMENT, IF IN COMPLIANCE WITH FEDERAL LAW, THAT THE BOARD SPECIFIES BY REGULATION.**

[(e)] (F) “IRA” means an individual retirement account or an individual retirement annuity under 26 U.S.C. § 408(a) or (b).

[(f)] (G) “Maryland Small Business Retirement Savings Program” means a retirement savings program established by the Maryland Small Business Retirement Savings Board under this title.

[(g)] (H) “Participating employee” means an employee that is participating in the Program through a payroll deposit retirement savings arrangement in accordance with regulations adopted by the Board.

[(h)] (I) “Participating employer” means a covered employer that provides a payroll deposit retirement savings arrangement under this title for covered employees.

[(i)] (J) “Payroll deposit retirement savings arrangement” means an arrangement by which a covered employer remits payroll deduction contributions of participating employees to the Program.

[(j)] (K) “Program” means the Maryland Small Business Retirement Savings Program established under this title.

[(k)] (L) “Trust” means the Maryland Small Business Retirement Savings Trust established under this title.

12–201.

(a) **(1)** There is a Maryland Small Business Retirement Savings Board.

(2) THE BOARD IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS SUBSECTION, THE BOARD IS NOT SUBJECT TO ANY LAW, INCLUDING § 6–106 OF THE STATE GOVERNMENT ARTICLE, THAT AFFECTS GOVERNMENTAL UNITS.

(II) THE BOARD IS SUBJECT TO:

1. THE OPEN MEETINGS ACT; AND

2. THE PUBLIC INFORMATION ACT.

(III) THE BOARD AND ITS EMPLOYEES ARE SUBJECT TO THE PUBLIC ETHICS LAW.

(e) The [Governor] APPOINTING AUTHORITY may remove a member WHOM THE APPOINTING AUTHORITY APPOINTED, for incompetence or misconduct.

12–203.

(b) (1) The Board shall [annually] prepare, [and] adopt, AND ANNUALLY REVIEW a written statement of investment policy that includes a risk management and oversight program.

12–204.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board:

(9) [shall] MAY procure insurance against any loss in connection with the property, assets, or activities of the Trust, and secure private underwriting and reinsurance to manage risk;

(16) may evaluate and establish the process by which A NONCOVERED EMPLOYER, an employee of a nonparticipating employer, OR A SELF-EMPLOYED INDIVIDUAL may enroll in and make contributions to the Program.

12-402.

(c) Employers shall retain the option at all times to set up any type of employer-offered savings arrangement[, such as a defined benefit plan or a 401(k), Simplified Employee Pension (SEP) plan, or Savings Incentive Match Plan for Employees (SIMPLE) plan, or to offer an automatic enrollment payroll deduction IRA,] instead of having a payroll deposit retirement savings arrangement to allow employee participation in the Program.

Article – State Personnel and Pensions

~~2-512.~~

~~(a) In this section, “qualifying nonprofit organization” means an organization that:~~

~~(1) (i) receives State funds from the Maryland Department of Health that cover more than one third of the organization’s operating expenses; and~~

~~(ii) is:~~

~~1. described in § 501(c)(3) of the Internal Revenue Code; and~~

~~2. exempt from income tax under § 501(a) of the Internal Revenue Code;~~

~~(2) is the Legal Aid Bureau, Inc.;~~

~~(3) is a corporation, a limited liability company, or any other entity that is wholly owned by the Legal Aid Bureau, Inc.; [or]~~

~~(4) is the Maryland Crime Victims’ Resource Center; OR~~

~~(5) IS THE MARYLAND SMALL BUSINESS RETIREMENT SAVINGS BOARD.~~

~~2-503.~~

(a) The Secretary shall:

(1) adopt regulations for the administration of the Program;

(2) ensure that the Program complies with all federal and State laws governing employee benefit plans; [and]

(3) each year, recommend to the Governor the State share of the costs of the Program; AND

(4) MAKE ONGOING ELIGIBILITY DETERMINATIONS TO ENSURE THAT PARTICIPATION IN THE PROGRAM DOES NOT IMPEDE, UNDERMINE, OR CONFLICT WITH FEDERAL COMPLIANCE OBLIGATIONS OR GOVERNMENT AND CAFETERIA PLAN STATUS.

2-515.2.

(A) THE MARYLAND SMALL BUSINESS RETIREMENT SAVINGS BOARD MAY ENROLL AND PARTICIPATE IN THE PROGRAM AS A SATELLITE ORGANIZATION.

(B) THE BOARD SHALL:

(1) PAY TO THE STATE THE TOTAL COSTS RESULTING FROM THE PARTICIPATION OF ITS EMPLOYEES IN THE PROGRAM AND A MONTHLY ADMINISTRATIVE FEE DETERMINED BY THE SECRETARY; AND

(2) DETERMINE THE EXTENT TO WHICH THE BOARD WILL SUBSIDIZE PARTICIPATION OF ITS EMPLOYEES IN THE PROGRAM.

35-101.

(a) In this title the following words have the meanings indicated.

(b) "Board" means the State Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

35-602.

An individual is eligible to participate in the deferred compensation plan if the individual is:

(1) an officer of this State;

(2) an employee of this State, including a contractual employee;

(3) an employee of the Northeast Maryland Waste Disposal Authority; [or]

(4) an independent contractor who performs service under § 21-304(c) of the Education Article; OR

(5) AN EMPLOYEE OF THE MARYLAND SMALL BUSINESS RETIREMENT SAVINGS BOARD WHO HAS BEEN DETERMINED BY THE BOARD TO BE AN ELIGIBLE EMPLOYEE UNDER THE FEDERAL INTERNAL REVENUE CODE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2018.

Approved by the Governor, May 15, 2018.