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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND RETIREMENT SECURITY PROGRAM

Introduced By: Representatives Edwards, and Shekarchi

Date Introduced: April 14, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative intent. The general assembly intends, by the enactment of this  
2 chapter, to provide and establish a retirement savings program in the form of a payroll deduction  
3 individual retirement account (IRA) program to be administered by a newly created Rhode Island  
4 retirement security board, for the purpose of promoting greater retirement savings by certain  
5 private sector employees in a convenient, voluntary, low-cost, and portable manner.

6 SECTION 2. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
7 GOVERNMENT" is hereby amended by adding thereto the following chapter:

8 CHAPTER 16.2

9 RHODE ISLAND RETIREMENT SECURITY PROGRAM

10 **42-16.2-1. Definitions.**

11 As used in this chapter, the following words shall have the following meanings:

12 (1) "Board" means the Rhode Island retirement security board, established pursuant to  
13 §42-16.2-5;

14 (2)(i) "Employee" means an individual who is employed by an employer;

15 (ii) "Employee" does not include:

16 (A) Any employee covered under the federal Railway Labor Act 45 U.S.C. 151 et seq., or  
17 any employee engaged in interstate commerce so as not to be subject to the legislative powers of  
18 this state, except insofar as application of this chapter is authorized under the laws of the United

1 States;

2 (B) Any employee covered by a valid collective bargaining agreement that expressly  
3 provides for a multi-employer Taft-Hartley pension plan; and

4 (C) Any employee who is under eighteen (18) years of age before the beginning of the  
5 calendar year;

6 (3)(i) "Employer" means an individual or entity engaged in a business, industry,  
7 profession, trade, or other enterprise in this state, whether for-profit or not-for-profit, that has:

8 (A) Not offered a qualified retirement plan, including, but not limited to, a plan qualified  
9 under §§401(a), 402(k), 403(a), 403(b), 408(k), 408(p), or 457(b) of the Internal Revenue Code,  
10 in the preceding two (2) years; and

11 (B) Satisfies the requirements to establish or participate in a payroll deposit retirement  
12 savings agreement;

13 (ii) Employer does not include:

14 (A) The federal government;

15 (B) The state; or

16 (C) Any of the state's units, departments, divisions or instrumentalities, including any  
17 municipal government of the state or its agencies;

18 (4) "Enrollee" means any employee who is enrolled in the retirement savings program  
19 established by this chapter;

20 (5) "IRA" means a traditional or Roth individual retirement account under §408 A of the  
21 Internal Revenue Code;

22 (6) "Office" means office of the general treasurer;

23 (7) "Participating employer" means an employer that provides a payroll deposit  
24 retirement savings arrangement for enrolled employees;

25 (8) "Payroll deposit retirement savings arrangement" means an arrangement by which an  
26 employer allows employees to remit payroll deduction contributions to a retirement savings  
27 program;

28 (9) "Program" means the Rhode Island retirement security program, established pursuant  
29 to this chapter;

30 (10)(i) "Vendor" means a registered investment company, life insurance company, or  
31 qualified third-party administrator, authorized to do business in Rhode Island, that provides or  
32 administers retirement investment products, including a company that is authorized to do business  
33 in Rhode Island, that provides payroll services or recordkeeping services, and offers retirement  
34 plans or payroll deposit IRA arrangements using products of regulated investment companies and

1 insurance companies qualified to do business in this state;

2 (ii) "Vendor" does not include individual registered representatives, brokers, financial  
3 planners or agents;

4 (11) "Wages" means any compensation, as defined by §219(f)(1) of the Internal Revenue  
5 Code, that is received by an enrollee from a participating employer during the calendar year.

6 **42-16.2-2. Administration.**

7 (a) The program shall be administered by the office of the general treasurer.

8 (b) In addition to and not in lieu of any other appropriation, there is appropriated to the  
9 state treasurer out of the general fund, five hundred thousand dollars (\$500,000), which must be  
10 used, in part or in full, to procure an executive director, and for operating expenses of the  
11 program. These funds are to be considered an advance, and repayment to the general fund shall be  
12 made by the program no later than ten (10) years from implementation of the program.

13 **42-16.2-3. Rhode Island retirement security program fund.**

14 (a) The Rhode Island retirement security program fund is hereby established as a trust  
15 separate from the state treasury, with the board established pursuant to §42-16.2-5, serving as  
16 trustee. The fund shall be composed of the individual retirement accounts of enrollees, which  
17 shall be maintained as individual accounts. Monies in the fund shall consist of monies received  
18 from enrollees and participating employers, pursuant to payroll deductions, and contributions to  
19 savings made under this program. The fund shall be operated in a manner determined by the  
20 board, provided that the fund is operated so that the accounts of enrollees, established under the  
21 program, meet the Internal Revenue Code requirements for IRA accounts.

22 (b) The amounts deposited in the fund shall not constitute property of the state and the  
23 fund shall not be construed to be a department, institution, or agency of the state. Amounts on  
24 deposit in the fund shall not be commingled with state funds and the state shall have no claim to  
25 or against, nor any interest in, such funds.

26 **42-16.2-4. Rhode Island retirement security program administrative fund.**

27 The Rhode Island retirement security administrative fund ("administrative fund") is  
28 created as a nonappropriated separate and apart, independent trust fund in the state treasury. The  
29 board shall use monies in the administrative fund to pay for administrative expenses incurred in  
30 the performance of its duties under this chapter. The administrative fund may receive any grants  
31 or other monies designated for administrative purposes from the state, or any unit of federal or  
32 local government, or any other person, firm, partnership, or corporation. Any interest earnings  
33 that are attributable to monies in the administrative fund must be deposited into the administrative  
34 fund.

1           **42-16.2-5. Retirement security board – Establishment -- Composition.**

2           There is created the Rhode Island retirement security board.

3           (1) The board shall consist of the following seven (7) members, each a resident of the  
4 state:

5           (i) The state treasurer, or designee, who shall serve as chair;

6           (ii) Two (2) members appointed by the governor, who shall possess excellent skills,  
7 knowledge and experience, one of which is in the interest of retirement plan design and the other  
8 in matters regarding the Federal Retirement Income Security Act of 1974;

9           (iii) Two (2) members appointed by the speaker of the house of representatives, who shall  
10 possess excellent skills, knowledge and experience, one of which is in the interests of the needs of  
11 the aging population and the other in the interest of retirement savings products;

12           (iv) Two (2) members appointed by the president of the senate, who shall possess  
13 excellent skills, knowledge and experience, one of which is in the interest of employers in  
14 retirement savings and the other in the interest of employees in retirement savings.

15           (2) Each appointed member shall serve an initial term of four (4) years. Thereafter, the  
16 speaker of the house of representatives, the president of the senate and the governor shall appoint  
17 members of the board to succeed each appointee whose terms expire and each member so  
18 appointed shall hold office for a term of six (6) years from October 1 in the year of their  
19 appointment.

20           (3) All initial appointments to the board shall be made not later than January 1, 2019.

21           (4) Members of the board shall serve without compensation but may be reimbursed for  
22 necessary travel expenses incurred in connection with the execution of their board duties, from  
23 funds appropriated for the purpose.

24           (5) Each board member, prior to assuming office, shall take an oath that they will  
25 diligently and honestly administer the affairs of the board and that they will not knowingly violate  
26 or willingly permit to be violated any of the provisions of this chapter or other applicable law.

27           (6) The office of the general treasurer shall supply staff support to the board.

28           **42-16.2-6. Fiduciary duty.**

29           The board, the individual members of the board, the trustee appointed pursuant to  
30 applicable federal law and regulations of the Department of the Treasury relating to the Internal  
31 Revenue Code, any other agents appointed or engaged by the board, and all persons serving as  
32 program staff, shall discharge their duties exclusively in the interest of the program's enrollees  
33 and beneficiaries as follows:

34           (1) For the exclusive purposes of providing benefits to enrollees and beneficiaries and

1 defraying reasonable expenses of administering the program;

2 (2) By investing with the care, skill, prudence, and diligence under the prevailing  
3 standard, that a prudent person acting in a like capacity and familiar with those matters, would  
4 use in the conduct of an enterprise of a like character and with like aims; and

5 (3) By using any contributions paid by employees and employers into the trust  
6 exclusively for the purpose of paying benefits to the enrollees of the program, for the cost of  
7 administration of the program, and for investments made for the benefit of the program.

8 **42-16.2-7. Powers and duties of the board and general treasurer.**

9 (a) The board shall have the following powers and duties:

10 (1) To establish and operate the program in a manner that:

11 (i) Following the best practices for retirement savings vehicles;

12 (ii) Maximizes participation, savings, and sound investment practices;

13 (iii) Maximizes simplicity, including ease of compliance and use, for participating  
14 employers and enrollees;

15 (iv) Provides an efficient and cost-effective product to enrollees;

16 (v) Ensures the portability of benefits; and

17 (vi) Provides for the accumulation of enrollee assets in a manner that maximizes financial  
18 security in retirement;

19 (2) To comply with all applicable federal law and regulations of the Department of the  
20 Treasury relating to the Internal Revenue Code;

21 (3) To make and enter into contracts necessary for the administration of the program;

22 (4) To evaluate and establish the process by which an enrollee is able to contribute a  
23 portion of their wages to the program and the process by which the participating employer  
24 provides a payroll deposit retirement savings arrangement to forward those contributions and  
25 related information of the program;

26 (5) To design and establish the process for enrollment under this chapter, including the  
27 process by which an employee may;

28 (i) Opt not to participate in the program;

29 (ii) Select a contribution level;

30 (iii) Select an investment option; and

31 (iv) Terminate participation in the program;

32 (6) To keep annual administrative expenses as low as possible;

33 (7) To facilitate education and outreach to employers and employees;

34 (8) To carry out the duties and obligations of the program in an effective, efficient and

1 low-cost manner. This includes the authority to explore, with other state entities, the potential  
2 efficiencies which might be achieved by combining vendor contracting opportunities;

3 (9) To exercise any other powers reasonably necessary for the effectuation of the  
4 purposes, objectives, and provisions of this chapter;

5 (10) To request, if deemed necessary, a written opinion or ruling from the appropriate  
6 entity, with jurisdiction over the federal Employee Retirement Income Security Act (ERISA),  
7 regarding the applicability and interpretation of the federal Employee Retirement Income  
8 Security Act to the program;

9 (11) To conduct or cause to be conducted, an audit of regular program-related activities  
10 of any vendor;

11 (12) To enter into information-sharing agreements with other state government entities  
12 possessing data helpful and necessary for program administration;

13 (13) To accept any grants, appropriations, or any other monies from the state, any unit of  
14 federal, state, or local government, or any other person, firm partnership or corporation solely for  
15 deposit into the fund, whether for investment or administrative purposes;

16 (14) To determine the type of IRA program, including assessment as to whether to utilize  
17 a Roth or traditional IRA.

18 (b) The general treasurer shall hire an executive director to implement decisions made by  
19 the board and administer the day-to-day operation of the program.

20 **42-16.2-8. Employment of vendors.**

21 (a) The board shall engage, through a procurement process, pursuant to the general laws,  
22 a vendor to serve as a default vendor with an eight (8) year request for proposal. In addition, the  
23 board shall have two (2) consecutive one-year options to extend the default contract into a ninth  
24 and tenth year.

25 (b) All other vendors selected by employers shall comply with all applicable federal and  
26 state laws, rules and regulations, as well as all administrative program regulations promulgated by  
27 the board.

28 (c) All vendors shall provide any reports that the board deems necessary for the board to  
29 oversee the vendor's performance, including, but not limited to, usage reports to monitor  
30 compliance.

31 **42-16.2-9. Investment options and contribution amount.**

32 (a) The board shall ensure that investment options include a life-cycle fund or a lifestyle  
33 balanced qualified default investment alternative, with a target date based upon the age of the  
34 enrollee;

1           (1) The life-cycle fund or a lifestyle balanced qualified default investment alternative  
2 shall be the default investment option for enrollees who fail to elect an investment option, unless  
3 and until the board designates by rule a new investment option as the default which it shall  
4 determine from appropriate qualified default investment alternatives;

5           (2) The contribution amount for the default option shall be five percent (5%) of wages  
6 earned during a payroll period.

7           (b) The board shall exercise its best efforts to also ensure that an appropriate menu of  
8 investment options are available to enrollees.

9           **42-16.2-10. Implementation of program -- Enrollment.**

10          (a) Prior to the opening of the program for enrollment, the board shall develop, design,  
11 and disseminate to all employers and employees information packets which shall include  
12 background information on the program and appropriate disclosures.

13          (b) The employee information packet shall include, but not be limited to, all of the  
14 following:

15           (1) The benefits and risks associated with making contributions to the program;

16           (2) The mechanics of how to make contributions to the program;

17           (3) How to opt out of the program;

18           (4) How to participate in the program;

19           (5) The process for withdrawal of retirement savings;

20           (6) How to obtain additional information about the program;

21           (7) A statement advising employees seeking financial advice to contact financial  
22 advisors, and further stating that participating employers are not in a position to provide financial  
23 advice, and are not liable for the decisions employees made pursuant to this chapter;

24           (8) A statement that the program is not an employer-sponsored retirement plan;

25           (9) A statement that the program fund is not guaranteed by the state;

26           (10) A form for an employee to record their decision to opt out of participation in the  
27 program; and

28           (11) Information stating that the default option is a life-cycle qualified default investment  
29 alternative fund and that the initial investment amount shall be five percent (5%) of wages earned  
30 during a payroll period.

31          (c) Participating employers shall provide employees with a copy of the employee  
32 information packet, upon the implementation of the program or at the time of hiring.

33          (d) Except as otherwise provided, the program shall be implemented and enrollment of  
34 employees shall begin on January 1, 2019.

1           (e) Each employer shall establish a payroll deposit retirement savings arrangement to  
2 allow each employee to participate in the program, within six (6) months after implementation of  
3 the program.

4           (f) If an employer chooses to participate in the program the employer shall enroll each  
5 employee, who has not opted out of participation in the program, and shall provide payroll  
6 deduction retirement savings arrangements for these enrollees and deposit the funds into the  
7 program.

8           (g) Enrollees must select a contribution level of at least five percent (5%) of wages  
9 earned during each payroll period. This level may be set up to the deductible amount for the  
10 enrollee's taxable year under §219(b)(1)(A) of the Internal Revenue Code.

11           (h) If an enrollee fails to select a contribution level using the form described in subsection  
12 (b) of this section, then the enrollee shall contribute five percent (5%) of their wages earned  
13 during a payroll period to the program, as long as this contribution does not cause the enrollee's  
14 total contributions to IRAs for the year to exceed the deductible amount for the enrollee's taxable  
15 year under §219(b)(1)(A) of the Internal Revenue Code.

16           (i) Enrollees may change their contribution level at any time, subject to administrative  
17 regulations promulgated by the board.

18           (j) Enrollees may select an investment option or a mix of investment options contained  
19 within the program.

20           (k) Enrollees may change their investment option at any time, subject to administrative  
21 regulations promulgated by the board.

22           (l) If an enrollee fails to select an investment option, that enrollee shall be placed in the  
23 investment option selected by the board as the default under subsection (b)(11) of this section. If  
24 the board has not selected a default investment option, then an enrollee who fails to select an  
25 investment option shall be placed in the life-cycle fund investment option.

26           (m) Employers shall retain the option at all times to set up any type of employer  
27 sponsored retirement plan, such as a defined benefit plan or a 401(k), simplified employee  
28 pension (SEP) plan, or savings incentive match plan for employees (SIMPLE), instead of having  
29 a payroll deposit retirement savings arrangement to allow employee participation in the program.

30           (n) An employee may terminate their participation in the program at any time in a manner  
31 authorized by the board.

32           (o) Enrollee contributions deducted by the participating employer through payroll  
33 deduction shall be paid by the participating employer to the vendors pursuant to payroll deposit  
34 retirement savings arrangements established by the board.



1           **42-16.2-11. No liability for retirement savings benefits.**

2           (a) The state shall have no duty or liability to any party for the payment of any retirement  
3 savings benefits accrued by any individual under the program.

4           (b) No board, state commission, commission, or agency, or any officer, employee, or  
5 member thereof, shall be liable for any loss or deficiency resulting from particular investments  
6 selected under this chapter.

7           (c)(1) Participating employers shall not have any liability for an employee's decision to  
8 participate in, or opt out of, the program or for the investment decisions of any enrollee.

9           (2) A participating employer shall not be a fiduciary, or considered to be a fiduciary, with  
10 respect to the program. A participating employer shall not bear responsibility for the  
11 administration, investment, or investment performance of the program. A participating employer  
12 shall not be liable with regard to investment returns, program design, and benefits paid to  
13 program participants.

14           **42-16.2-12. Rules and regulations.**

15           The board shall promulgate administrative rules and regulations, as necessary to carry out  
16 and implement the provisions of this chapter.

17           SECTION 3. This act shall take effect on January 1, 2019.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND RETIREMENT  
SECURITY PROGRAM

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1           This act would establish a private employer IRA program allowing its employees to  
2 contribute at least five percent (5%) of their payroll period wages into an IRA program, with  
3 oversight by the Rhode Island retirement security board.

4           This act would take effect on January 1, 2019.

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