

# Retirement Options for Non-profit Organizations

This Act allows non-profit organizations with fewer than 20 employees to enter into a contributory retirement plan. There is no state money used to fund the retirement plan, which will be overseen by the state treasurer. To establish the plan, the treasurer may create a trust to receive qualified contributions from non-profit employers and employees, and must establish a non-profit defined contribution committee that will include the treasurer and four other members.

Submitted as:

Massachusetts

[HB 3754](#)

Status: Enacted into law in 2012.

## Suggested State Legislation

(Title, enacting clause, etc.)

1           Section 1. [*Short Title.*] An Act to provide retirement options for nonprofit organizations.

2  
3           Section 2. [*Establishment and management of the not-for-profit retirement plan; contribution*  
4 *committee.* ]

5           (a) As used in this section, the term “not-for-profit employer” shall include eligible  
6 organizations incorporated under section 501(c) of the Internal Revenue Code, but does not include a  
7 governmental employer.

8           (b) The state treasurer may conduct research regarding the current status of retirement  
9 programs available to not-for-profit employees and the appeal of creating a program for their benefit.

10           (c) The treasurer and receiver general, on behalf of the [insert state], may sponsor a qualified  
11 defined contribution plan within the meaning of section 414(i) of the Internal Revenue Code, in this  
12 section called the Code, that may be adopted by not-for-profit employers for their employees in  
13 accordance with section 401(a) of the Code, regulations provided under that section and applicable  
14 guidance from the Internal Revenue Service. The treasurer shall obtain approval from the Internal  
15 Revenue Service with respect to the plan and shall ensure the administration of the plan is in  
16 compliance with the Code and other applicable federal and state laws including the Employee  
17 Retirement Income Security Act of 1974, in this section called ERISA. The plan shall provide for a  
18 qualified trust under said section 401(a), with contributions made to the trust by the not-for-profit  
19 employer, the employer's employees, or both. Under the trust instrument, any part of the corpus or  
20 income shall not be used for, or diverted to, purposes other than the exclusive benefit of employees  
21 or their beneficiaries at any time prior to the satisfaction of all liabilities with respect to employees  
22 and their beneficiaries. In order to participate in the plan, a not-for-profit employer shall execute a  
23 participation agreement, agree to the terms of the plan and operate the plan in compliance with the  
24 Code and ERISA. The treasurer may require that the not-for-profit employer sign a service  
25 agreement and use forms and procedures prescribed by the treasurer. The treasurer may also require  
26 that certain employers seek approval of their plans from the Internal Revenue Service.

27           (d) The treasurer may contract with practitioners, administrators, investment managers and  
28 other entities, including the [insert state] Pension Reserves Investment Management Board, in order  
29 to design, administer and provide investment options under the plan. The treasurer shall, before  
30 making any such contract, solicit bids from companies authorized to conduct business within the  
31 commonwealth, which shall be sealed and opened at a time and place designated by the treasurer. A

1 submitted bid shall, where applicable, clearly indicate the interest rate which shall be paid on the  
2 deferred funds, any commissions which shall be paid to salespersons, any load imposed for the  
3 purpose of administering the funds, mortality projections, expected payouts, tax implications for  
4 participating employees and such other information as the treasurer may require. A contract entered  
5 into between an employee and the not-for-profit employer pursuant to this section shall include all  
6 such information in terms the employee can reasonably be expected to understand. Upon a  
7 determination by the treasurer as to which provider offers the investment options most beneficial to  
8 the employee in each category for which bids were solicited, the employee may choose the  
9 investment option for the employee's account.

10 Notwithstanding any provision to the contrary, the treasurer shall not be required to solicit  
11 bids to invest the contributed portion of an employee's income into the employee's defined  
12 contribution plan account provided:

13 (i) that the treasurer is authorized by the employee to pay that portion of  
14 the employee's compensation into the employee's defined  
15 contribution plan account in the same investment products as  
16 provided through a deferred compensation plan for employees of  
17 the commonwealth administered by the treasurer, and

18 (ii) that such plan resulted from the solicitation of bids in accordance with  
19 the requirements under this section.

20 (e) There shall be in the office of the treasurer and receiver general a not-for-profit defined  
21 contribution committee. The committee shall consist of the treasurer or a designee, who shall serve  
22 as chairperson, and 4 additional members appointed by the treasurer, 2 of whom shall have practical  
23 experience in the human services, educational or public and societal benefit sector of the non-profit  
24 community and 2 of whom shall be currently employed by not-for-profit corporations. Each member  
25 shall be appointed for a term of 3 years and shall be eligible for reappointment. In the case of a  
26 vacancy, a successor shall be appointed for a full term or for the unexpired portion thereof, as the  
27 case may be. A member of the committee shall be eligible for reappointment. The committee shall  
28 annually elect 1 of its members to serve as vice-chairperson. The committee shall meet from time to  
29 time and assist the treasurer in the development of general policy regarding the program, and shall  
30 provide technical advice and input to the state treasurer. The members of the committee shall serve  
31 without compensation, but shall be reimbursed for necessary expenses incurred in the performance  
32 of their duties.

33 (f) The treasurer is hereby authorized to adopt rules and regulations related to this section and  
34 do all things convenient to carry out the provisions and purposes of this section.

35  
36 Section 3. [*Appointment of current not-for-profit employees.*]

37 Notwithstanding any general or special law to the contrary, in making his initial  
38 appointments to the not-for-profit defined contribution committee pursuant to [insert citation], the  
39 treasurer shall appoint 1 member currently employed by a not-for-profit corporation to serve for a  
40 term of 2 years.

41  
42 Section 4. [*Severability.*] Insert severability clause.

43  
44 Section 5. [*Repealer.*] Insert repealer clause.

45  
46 Section 6. [*Effective Date.*] Insert effective date.