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.)

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

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

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

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

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

(d) The treasurer may contract with practitioners, administrators, investment managers and other entities, including the [insert state] Pension Reserves Investment Management Board, in order to design, administer and provide investment options under the plan. The treasurer shall, before making any such contract, solicit bids from companies authorized to conduct business within the commonwealth, which shall be sealed and opened at a time and place designated by the treasurer. A
submitted bid shall, where applicable, clearly indicate the interest rate which shall be paid on the
delayed funds, any commissions which shall be paid to salespersons, any load imposed for the
purpose of administering the funds, mortality projections, expected payouts, tax implications for
participating employees and such other information as the treasurer may require. A contract entered
into between an employee and the not-for-profit employer pursuant to this section shall include all
such information in terms the employee can reasonably be expected to understand. Upon a
determination by the treasurer as to which provider offers the investment options most beneficial to
the employee in each category for which bids were solicited, the employee may choose the
investment option for the employee’s account.

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

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

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

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

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

Section 3. [Appointment of current not-for-profit employees.] Notwithstanding any general or special law to the contrary, in making his initial
appointments to the not-for-profit defined contribution committee pursuant to [insert citation], the
treasurer shall appoint 1 member currently employed by a not-for-profit corporation to serve for a
term of 2 years.

Section 4. [Severability.] Insert severability clause.

Section 5. [Repealer.] Insert repealer clause.

Section 6. [Effective Date.] Insert effective date.