



COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20004

CHRISTINA HENDERSON
Councilmember, At-Large
Chairperson, Committee on Health

Committee Member
Hospital and Health Equity
Judiciary and Public Safety
Transportation and the Environment

Statement of Introduction
Automatic Retirement Savings Act of 2023
July 14, 2023

Today, along with Councilmembers Vincent C. Gray, Charles Allen, Matthew Frumin, Brooke Pinto, and Brienne K. Nadeau, I am introducing the Automatic Retirement Savings Act of 2023. This legislation would establish a Retirement Savings Board which would manage a universally available and voluntary Retirement Savings Program for employees of private businesses who are not offered a retirement plan through their workplace and for certain self-employed individuals. Employees would have 3% of their earnings automatically deducted from their wages to contribute to the program, unless they make an election to not contribute or to contribute a different amount. The program is designed to serve the employees of the small businesses who are unable to offer retirement savings accounts to employees due to the cost and administrative burden of maintaining them. These accounts would also be portable if a participating employee changes jobs, because the accounts would be managed by the District, not the employer.

In 2017, the District was ranked the 10th worst area to retire in the United States, attributable to the high costs of health care and housing in the region.¹ According to the National Institute on Retirement Security, 56% of Americans are not confident in their ability to achieve a financially secure retirement, and 68% do not think that the average worker can save enough on their own to guarantee a secure retirement.² Over time, a decreasing share of the workforce has had access to an employer-sponsored retirement plan or a defined benefit pension, and defined contribution individual accounts rely on the employee's initiative and offer lower savings and protections.³ Social Security's benefits decline over time relative to increases in the cost of living. These issues are amplified for Black and Latino workers, whose wages and retirement savings have historically been depressed compared to those of white workers.⁴

States like California, Oregon, Illinois, and Connecticut have implemented automatic income retirement account savings programs, and the programs in those 4 states have accumulated \$630 million in assets to date. A state-managed retirement program can increase participation from individuals who have historically lacked the structure and access to retirement savings programs that, over time, can build meaningful savings. Approximately 173,000 employees in the District

¹ [District ranked 10th worst place to retire, WTOP News, 2016.](#)

² [Retirement Insecurity 2021. National Institute on Retirement Security.](#)

³ *Ibid.*

⁴ [Studies Spotlight Racial, Ethnic Gaps in Retirement Savings, AARP, 2022.](#)



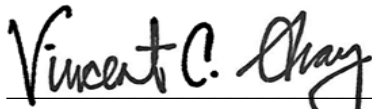
**COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20004**

do not have access to a retirement savings account through their employer. That number will continue to grow as more small businesses establish themselves in the city. A savings plan facilitated by the District would help alleviate the barriers that prevent employees whose employers do not offer long-term retirement savings options from saving for their future retirement.

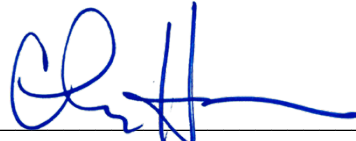
A District-sponsored savings plan, funded by employees and managed by the Retirement Savings Board, is one response to the long-standing and increasingly urgent concerns about retiree's financial security. Seniors today find Social Security alone insufficient to cover their costs.⁵ It is estimated that 37% of retirees do not have any retirement savings. As the cost of living increases over time, supplementing Social Security income with retirement savings will be crucial for workers to retire with dignity and financial security. Lack of adequate savings could force some retirees to try and re-enter the workforce or rely on family for support. This legislation will enable individuals to plan for their retirement and create a stronger, more resilient economy by having a source of income to help pay for living expenses and health care, among other things.

I look forward to working with my colleagues to advance this bill and work together to ensure that every District resident can plan for a more secure financial future.

⁵ [Half of single seniors can't pay for the basics. Here's why Social Security's not enough, CNBC, 2020.](#)

1 

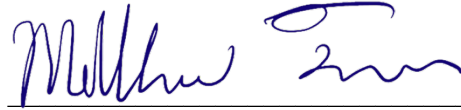
2 Councilmember Vincent C. Gray



Councilmember Christina Henderson

4 

6 Councilmember Charles Allen



Councilmember Matthew Frumin

8 

10 Councilmember Brooke Pinto



Councilmember Brianne K. Nadeau

15 A BILL

19 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

23 To establish a Retirement Savings Board, and to establish a universally available and voluntary
24 Retirement Savings Program for employees of private entities and certain self-employed
25 individuals who are not offered a retirement plan through their workplace.

27 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act
28 may be cited as the “Automatic Retirement Savings Act of 2023”.

29 Sec. 2. Definitions.

30 For the purposes of this act, the term:

31 (1) “Board” means the Retirement Savings Board established pursuant to section 3.

32 (2) “Covered employee” shall mean an individual who is 18 years of age or older,
33 who is employed by a covered employer in the District or self- employed, and is not an employee
34 of the federal government, the District government or any independent agency or instrumentality of
35 the District government, or any employer that maintains an employee sponsored retirement plan.

36 (3) "Employer" or "covered employer" shall have the same meaning as in section 2
37 of An Act To provide for the payment and collection of wages in the District of Columbia,
38 approved August 3, 1956 (70 Stat. 976; D.C. Official Code § 32-1302) and shall conform with the
39 following;

40 (A) Who is headquartered in the District;

41 (B) Employs no fewer than 5 covered employees;

42 (C) Has employed no fewer than 5 such employees without interruption for
43 the previous calendar year;

44 (D) Has been in continuous operation for at least 2 years; and

45 (E) Has not offered or maintained a retirement plan in the preceding 2 years.

46 (5) "Participant" means a covered employee enrolled in the retirement savings
47 program.

48 (6) "Retirement plan" means;

49 (A) A qualified retirement plan under section 401(a) of the Internal Revenue
50 Code, section 403(b), section 408(k), or section 408(p) of the Internal Revenue Code (I.R.C. §§
51 401 (a), 403(b), 408 (k), 408 (p)); or

52 (B) A savings incentive match plan for employees of small employers, a
53 simplified employee pension, a salary reduction simplified employee pension, or a payroll
54 deduction IRA.

55 (7) "Program" mean the Retirement Savings Program established pursuant to section
56 4.

57 Sec. 3. Establishment of the Retirement Savings Board.

58 (a) There is established, as an independent agency of the government of the District of
59 Columbia, a board of trustees to be known as the Retirement Savings Board, which shall have
60 exclusive authority and discretion (subject to the requirements of this act) to manage, administer,
61 implement, and control the Program established by this act.

62 (b) The Board shall consist of the following 7 members:

63 (1) The Chief Financial Officer or their designee;

64 (2) The Commissioner of the Department of Insurance, Securities and Banking or
65 their designee;

66 (3) The Director of the Department of Small and Local Business Development or
67 their designee;

68 (4) The Executive Director of the Workforce Investment Council or their designee;

69 and

70 (5) Three public members appointed by the Mayor as follows:

71 (A) One public member who owns a business in the District; and

72 (B) Two public members with experience in providing financial advice or
73 assistance to lower- to moderate-income workers or retirees;

74 (c) A public member's initial term shall be for 4 years.

75 (d) A vacancy on the Board shall be filled in the same manner that the original appointment
76 was made. Any person appointed to fill a vacancy shall serve for the unexpired term of the original
77 appointment.

78 (e) No member of the Board shall be appointed to serve more than 2 consecutive 4-year
79 terms of office.

80 (f) The chairperson of the Board shall be selected from among the public members.

81 (g) Each member of the Board shall have one vote. The powers of the Board shall be
82 exercised by a majority of members present at a meeting of the Board, whether in person or
83 remotely. Four members shall constitute the necessary quorum to convene a meeting of the Board
84 and to act on any measure before it.

85 (h) The Board shall meet at a minimum of 4 times annually.

86 (i) The chairperson or the Chief Financial Officer is authorized to call and set the agenda for
87 special meetings of the Board.

88 (j) Subject to applicable federal and District law, the Board, in consultation with the Office of
89 Tax and Revenue, shall establish, design, develop, implement, maintain, and oversee the Program in
90 accordance with best practices for retirement saving vehicles. The Board shall have power to adopt
91 reasonable and proper rules and regulations necessary to implement the provisions of this chapter.

92 (k) The Board shall, through employer and employee outreach, marketing or education
93 initiatives, or publication of online resources, encourage participation, retirement saving, and sound
94 investment practices.

95 (l) The Board shall provide or make available information regarding the Program, including its
96 applicability and registration requirements, with emphasis on participation eligibility and the ability of
97 employers at any time to sponsor a specified tax-favored retirement plan that would exempt them
98 from covered employer status.

99 Sec. 4. Retirement Savings Program.

100 (a) There is established the Retirement Savings Program, which shall be designed and operated
101 by the Board in a manner that will cause it not to constitute an employee benefit plan with the
102 meaning of section 3(3) of the Employee Retirement Income Security Act of 1974, approved
103 September 2, 1974 (88 Stat. 832; 29 U.S.C. § 1001a(3)).

104 (b) The Program shall have such features as the Board in its discretion may adopt, subject to
105 applicable federal law, and shall:

106 (1) Provide each participant with an account within the Program, to which covered
107 employers shall remit the participant employee's contributions within 30 days of the end of the month
108 in which the participant would have otherwise received the contributions in cash;

109 (2) Allow covered employees to open a retirement savings account established under
110 the Program through payroll deduction or any other method of contribution established by the Board;

111 (3) Require all participating employers to offer covered employees the opportunity to
112 contribute to accounts established by the Program through payroll deduction or any other method of
113 contribution established by the Board;

114 (4) Provide for the automatic enrollment of covered employees and allow such
115 employees to opt out of the Program;

116 (5) Set a default contribution rate of 3 percent of a covered employee's wages, subject
117 to any increase or decrease of such a rate authorized by the Board;

118 (6) Permit a participant to change their contribution rate to be a percent of their wages
119 or a lump sum, which the individual may later change;

120 (7) Include a process for withdrawals by, and disbursement to, participants and provide
121 options for such withdrawals and disbursements, including lump-sum or periodic payments;

122 (8) Take measures to protect the confidentiality of account and participant information;

123 (9) Maintain separate records and accounting for each account;

124 (10) Report on the status of accounts to participants no less than once per year or upon
125 request by the participant;

126 (11) Allow participants who have become ineligible to participate in the Program to
127 maintain or withdraw account balances or roll over such balances into other retirement accounts,
128 subject to federal law;

129 (12) Allow participants to terminate participation in the Program and maintain or
130 withdraw account balances or roll over such balances into other retirement accounts, subject to federal
131 law; and

132 (13) Allocate administrative fees to the retirement savings accounts in the Program.

133 Sec. 5. Participating employer obligations.

134 (a) A covered employer shall enroll each of its covered employees in the Program by a date
135 to be determined by the Board, provided that, the covered employee provide notice that they do not
136 wish to participate in the program.

137 (b) A participating employer shall remit funds deducted from the earnings of each
138 participant for deposit in the retirement savings program within 30 days of the end of the month in
139 which the employee would have otherwise received the contributions in cash.

140 Sec. 6. Information and disclaimers to covered employees and participants.

141 (a) In addition to any other information or disclaimers that the Board deems appropriate, the
142 Board shall make available to covered employees and covered employers the following information
143 in plain language:

144 (1) The benefits and risks associated with enrolling in the Program;

145 (2) Procedures regarding contributing to the Program and opting out;

146 (3) Procedures regarding increasing or decreasing the rate or amount of contribution;

147 (4) Options and processes for withdrawing account balances;

148 (5) Procedures regarding obtaining additional information about the Program;

149 (6) Procedures regarding filing complaints about non-compliance by covered
150 employers or other concerns about the Program;

151 (7) Information regarding the ability of covered employees and participants to seek
152 financial advice concerning retirement savings from financial advisers, tax advisers or other
153 qualified individuals;

154 (8) Fund profiles, including fees, for each of the available investment options; and

155 (9) The following disclaimers:

156 (A) Participating employers, the Board and its members, the Office of Tax
157 and Revenue, or the District government are not authorized to provide financial advice;

158 (B) The Program is not an employee benefit plan under the Employee
159 Retirement Income Security Act of 1974, approved September 2, 1974 (88 Stat. 832; 29 U.S.C. §
160 1001 *et seq.*);

161 (C) Participating employers, the Board and its members, the Office of Tax
162 and Revenue, and the District government are not liable for any loss incurred by a participant from
163 investing in the Program;

164 (D) Participating employers, the Board and its members, the Office of Tax
165 and Revenue, or the District government will not monitor and are not obligated to monitor a
166 participant employee's eligibility under federal law to make contributions to an IRA; and

167 (E) Neither the program, the principal investments, any return on investment
168 nor any interest rate is guaranteed by the Program.

169 Sec. 7. Participating employer record retention.

170 Each participating employer shall retain annual records documenting such employer's
171 compliance with the requirements of this act for a period of 3 years.

172 Sec. 8. Compliance.

173 (a) The Board shall have exclusive authority to ensure compliance with and enforce this act or
174 any regulation promulgated under this act.

175 (b) The Board shall establish a process for the submission of covered employee and participant
176 complaints concerning a covered employer's alleged failure to comply with the provisions of this act.
177 All complaints concerning a covered employer's compliance with this act received by any other
178 District agency shall be referred to the Board. The Board may, with or without a complaint, monitor
179 the status of covered employers' compliance with this act, including through review of available data
180 and documents.

181 (c) If the Board determines that a covered employer is not in compliance with the provisions of
182 this act, the Board shall issue a notice to the employer outlining the nature and extent of the alleged
183 noncompliance, provide instructions for compliance, and specify the potential administrative penalties
184 for noncompliance.

185 (d) If the employer does not come into compliance within 90 days of the date the notice was
186 issued, the Board, in its discretion, may initiate enforcement proceedings; except, that the Board shall
187 not initiate enforcement proceedings against a covered employer until one year after the effective date
188 of this act.

189 (e) The Board may, in a final order, impose administrative penalties against a covered
190 employer who fails to comply with this chapter, or any regulation promulgated under this chapter,
191 which shall not exceed \$250 per employee per year, up to a maximum total penalty of \$5,000 per
192 year.

193 (f) The Board's decision may be appealed by the covered employer within 15 days of the
194 issuance of the decision.

195 (g) The Board shall respond to the appeal within 15 days of receiving the appeal.

196 Sec. 9. Fiscal impact statement.

197 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
198 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
199 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

200 Sec. 10. Effective date.

201 This act shall take effect after approval by the Mayor (or in the event of veto by the Mayor,
202 action by the Council to override the veto), a 30-day period of congressional review as provided in
203 section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87
204 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia
205 Register.