

HOUSE No. 39

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to the SMART Plan.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 64 of chapter 29 of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by striking, in line 31, the words “independent contractors”
3 and inserting in place thereof the following:- contracted employees

4 SECTION 2. Said section 64 of said chapter 29 of the General Laws, as so appearing, is
5 hereby further amended by inserting at the end thereof the following paragraph:-

6 The state treasurer, on behalf of the commonwealth, may establish an automatic
7 enrollment feature within the deferred compensation program. The automatic enrollment feature
8 shall not require prior authorization by an employee, and is hereby deemed to be an exception to
9 the provisions of the Massachusetts Wage Act or any other state law requiring employee
10 authorization for a payroll deduction or any similar ordinance of a governmental body. The
11 details of the automatic enrollment feature shall be set forth in the deferred compensation plan
12 document and shall include, but not be limited to, the following provisions:

13 (a) automatic enrollment shall apply only to new employees of the commonwealth,
14 meaning employees hired on or after June 1, 2024; provided, however, that for any
15 commonwealth agencies or departments that purchase or make payments to an individual or
16 group annuity contract, custodial account, or any other investment authorized under section
17 403(b) of the Internal Revenue Code for its employees, automatic enrollment shall only apply at
18 said agency's or department's discretion and affirmative election;

19 (b) automatic enrollment shall apply only to new employees of a "governmental body",
20 as defined in section 64B of chapter 29 of these general laws, if the governmental body elects to
21 implement the automatic enrollment feature for its employees;

22 (c) automatic enrollment may not require more than the IRS safe harbor maximum
23 deferral percentage;

24 (d) the amount of compensation deferred by an automatically-enrolled employee shall
25 automatically increase by a specified amount each year unless the participating employee elects
26 not to participate in auto escalation or elects to defer a different amount than specified;

27 (e) an employee who is automatically enrolled shall no more than ninety days to
28 discontinue participation in the plan;

29 (f) an automatically-enrolled employee who discontinues participation in the plan within
30 ninety days shall receive a refund of their account as soon as practicable after discontinuing
31 participation;

32 (g) a qualified default investment option to receive contributions by any automatically-
33 enrolled employee who does not choose an investment alternative to receive the employee's
34 contributions; and

35 (h) notice requirements to automatically-enrolled participants in accordance with the
36 Internal Revenue Code and applicable IRS Rulings.

37 SECTION 3. Section 64B of chapter 29 of the General Laws, as so appearing, is hereby
38 amended by inserting between the third and fourth paragraphs the following new paragraph:-

39 The treasurer or, in the absence of the treasurer, the chief financial officer by whatever
40 name that person is called, on behalf of a governmental body, may, at its own election,
41 implement an automatic enrollment feature within its deferred compensation program established
42 pursuant to this section 64B, chapter 29. The automatic enrollment feature shall not require
43 advance authorization by an employee and is hereby deemed to be an exception to the provisions
44 of the Massachusetts Wage Act or any other state law requiring employee authorization for a
45 payroll deduction or any similar ordinance of a governmental body. Subject to the election of
46 each governmental body, any such auto enrollment feature permitted as a part of a governmental
47 body's deferred compensation program shall only apply to new employees of a governmental
48 body hired on or after June 1, 2024 and such deferred compensation program will be required to
49 include the specifications for auto enrollment detailed in subsections (b) through (h), inclusively,
50 of section 64 of chapter 29 of said General Laws.