

**HOUSE . . . . . No. 899**

---

The Commonwealth of Massachusetts

PRESENTED BY:

***Robert M. Koczera***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to universal voluntary retirement accounts.

PETITION OF:

NAME:

*Robert M. Koczera*

DISTRICT/ADDRESS:

*11th Bristol*

**HOUSE . . . . . No. 899**

---

By Mr. Koczera of New Bedford, a petition (accompanied by bill, House, No. 899) of Robert M. Koczera relative to universal voluntary retirement accounts. Financial Services.

---

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1194 OF 2011-2012.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

An Act relative to universal voluntary retirement accounts.

*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. The legislature finds that small and medium sized businesses find it  
2 difficult to offer retirement plans because of the complexity and costs. Businesses offering  
3 retirement plans have better ability to recruit and retain employees. The Massachusetts voluntary  
4 retirement accounts program will provide a simple and cost effective way for employers to offer  
5 an important employee benefit. The legislature also finds that many workers do not have access  
6 to an employment based retirement plan. Workers who are unable to build up pensions and  
7 savings risk living on low incomes in their old age and are more likely to become dependent on  
8 state services. The Massachusetts voluntary retirement accounts program will provide for a  
9 simple and inexpensive way for worker to save for retirement.

10 SECTION 2. The definitions in this section apply throughout, unless the context clearly  
11 requires otherwise.

12 (1) “Director” means the director of the voluntary retirement accounts program.

13 (2) “Enrollee” means any worker in the state that is enrolled in the program.

14 (3) “Participating employer” means any private employer, with a place of business in  
15 this state, and with employees that have enrolled in the program.

16 (4) “Program” means the Massachusetts voluntary retirement accounts program  
17 created by this act.

18 (5) “Qualified employee” means those workers that are defined by the federal internal  
19 revenue service to be eligible to participate in a specific retirement plan.

20 SECTION 3. The director is responsible for the implementation and operation of the  
21 program, directly or by contract. Sections 4 through 6 of this act may not be implemented until  
22 appropriate federal and/or philanthropic funds for start-up have been secured for deposit into the  
23 Massachusetts voluntary retirement accounts program administrative account. Once start-up  
24 funding has been expended, program implementation and operation is paid through fees on  
25 enrollee’s accounts. Funds from the Massachusetts public retirement systems expense account  
26 may not be used to administer the program or to obtain program funding.

27 SECTION 4. Prior to the enrollment of any private sector worker or employer in the  
28 program, the director shall design a plan for the operation of the program. The program consists  
29 of a two tier system with one or more of the following: SIMPLE IRA-type program or other  
30 internal revenue service approved employer plan, open to any employer employing one hundred

31 or fewer qualified employees who choose to participate for their employees; and workplace  
32 based individual retirement accounts open to all workers. The director shall then seek approval  
33 if necessary from the federal internal revenue service to offer the plans and accounts to  
34 Massachusetts employers and workers on tax-qualified basis. The plans and accounts must  
35 include the option for enrollees to roll pretax contributions into an individual retirement account  
36 or another eligible retirement plan after ceasing participation in the program. A range of  
37 investment options must be provided to meet the needs of investors with various levels of risk  
38 tolerance and various ages. Funds offered should cover a range of investment options from low  
39 risk to high risk and include options for those who do not wish to actively manage their  
40 investments. The Pension Reserves Investment Management “PRIM” Board shall provide  
41 investment options for participants to choose from, and shall establish an investment plan for  
42 participants who choose not to self-direct investments.

43           SECTION 5. Enrollment in the program is not an entitlement and must not result in  
44 expenditures that exceed the amount available in the Massachusetts voluntary retirement  
45 accounts program administrative account. If it appears that continued enrollment will result in  
46 expenditures exceeding the amount available for a particular fiscal year, the director may freeze  
47 new enrollments in the program and establish a waiting list of eligible workers, or reduce  
48 enrollments.

49           SECTION 6. Following the design and approval of the program under section 4 of this  
50 act, the director shall adopt all rules necessary for the implementation and operation of the  
51 program. Rules shall be written to comply with federal standards and may incorporate federal  
52 recommendations that are in the best interests of enrollees and the operations of the plan. As part  
53 of the rule development process, the director shall consult with employers, workers, private

54 sector retirement plan administrators and providers, and any other individuals or entities the  
55 director determines relevant to the development of an effective and efficient method for  
56 operating the program.

57         SECTION 7. (1) The Massachusetts voluntary retirement accounts program principal  
58 account is established in the state treasury department and must be administered in compliance  
59 with applicable federal law and as set forth in this section. The department may make  
60 arrangements with financial institutions to serve as trustees or custodians of the Massachusetts  
61 voluntary retirement accounts as may be required or advisable to comply with applicable federal  
62 law and to provide for the efficient implementation and administration of the program.

63         (2) The contributions elected by participating employees in accordance with section 4 of  
64 this act must be paid into the Massachusetts voluntary retirement accounts program principal  
65 account and must be sufficient to cover costs of administration and staffing in addition to such  
66 other amounts as may be determined by the director.

67         (3) All moneys in the Massachusetts voluntary retirement accounts program  
68 principal account and administrative account, all property and rights purchased therewith, and all  
69 income attributable is held in trust by the Pension Reserves Investment Management

70         Board for the exclusive benefit of the Massachusetts voluntary retirement accounts  
71 program participants and their beneficiaries, and, notwithstanding any other provision of this or  
72 related acts, must be held separate from other types of funds to the extent required by federal  
73 law. Neither the participating employee, nor the participant's beneficiary or beneficiaries, nor  
74 any other designee, has any right to receive any payments under the program. These payments  
75 and rights are non-assignable and non-transferable. Account balances are not subject to

76 attachment, garnishment, or execution and are not transferable by operation of law in event of  
77 bankruptcy or insolvency, except to the extent otherwise required by law.

78 (4) The Pension Reserves Investment Management Board has the full power to invest  
79 moneys in the Massachusetts voluntary retirement accounts program principal account and the  
80 administrative account. All investment and operating costs of the Pension Reserves Investment  
81 Management Board associated with the investment of the program assets must be paid by the  
82 Massachusetts voluntary retirement accounts program. With the exception of these expenses,  
83 one hundred percent of all earnings from these investments shall accrue directly to the  
84 Massachusetts voluntary retirement accounts program principal account,

85 (5) (a) No state board, commission, or agency, or any officer, employee, or member  
86 thereof is liable for any loss or deficiency resulting from participant investments selected under  
87 this subchapter.

88 (b) The Pension Reserves Investment Management Board or any officer, employee,  
89 or member thereof is not liable for any loss of deficiency resulting from reasonable efforts to  
90 implement investment directions under this subchapter.

91 (6) The Massachusetts voluntary retirement accounts program administrative account is  
92 created in the state treasury. Federal appropriations or philanthropic grants received specifically  
93 for this program must be deposited into the Massachusetts voluntary retirement accounts  
94 program administrative account. Expenses of the department pertaining to the Massachusetts  
95 voluntary retirement accounts program including staffing and administrative expenses shall be  
96 paid out of the Massachusetts voluntary retirement accounts program administrative account.  
97 Any excess balances credited to this account over administrative expenses disbursed from this

98 account shall be transferred to the Massachusetts voluntary retirement accounts program  
99 principal account at such time and in such amounts as may be determined by the director with  
100 the approval of the director of financial management. Any deficiency into the Massachusetts  
101 voluntary retirement accounts program administrative account caused by an excess of  
102 administrative expenses disbursed from this account shall be transferred to this account from the  
103 Massachusetts voluntary retirement accounts program principal account.

104 (7) (a) (i) The director shall keep or cause to be kept full and adequate accounts and  
105 records of the assets of each individual participant, obligations, transactions, and affairs of the  
106 program. The department shall account for and report on the investment of program assets or  
107 may enter into an agreement with Pension Reserves Investment Management Board for  
108 accounting and reporting.

109 (ii) The director's duties related to individual participant accounts include conducting  
110 the activities, and direction of cash movement and related wire transfers with the custodian bank  
111 and outside investment firms.

112 (iii) The director has sole responsibility for contracting with any record keepers for  
113 individual participant accounts and shall manage the performance of record keepers under those  
114 contracts. In establishing contracts, the director shall give consideration to contracts that assign  
115 primary liability for all tort and contract actions to the contractor. In establishing the contracts,  
116 the department shall assume secondary liability and joint and several liability must be preserved.  
117 When considering a contract that assigns primary liability to the contractor, the director shall  
118 determine the potential liability and the costs and benefits of adding the liability considerations  
119 in this subsection (7) (a) (iii) to contract language.

120 (b) The director may contract with private-sector financial services firms to enroll  
121 eligible private-sector individuals and workers in the Massachusetts voluntary retirement  
122 accounts program. The director may establish contracts with financial services firms for this  
123 function.

124 (c) (i) The director's duties under (a) (ii) of this subsection do not limit the authority of  
125 the Pension Reserves Investment Management Board to conduct its responsibilities for asset  
126 management and balancing of program funds.

127 (ii) The Pension Reserves Investment Management Board has sole responsibility for  
128 contracting with outside investment firms to provide investment management for program funds  
129 and shall manage the performance of investment managers under those contracts. In establishing  
130 contracts, the Pension Reserves Investment Management Board shall give consideration to  
131 contracts that assign primary liability for all tort and contract actions to the contractor. In  
132 establishing the contracts, the Pension Reserves Investment Management Board shall assume  
133 secondary liability and joint and several liability must be preserved. When considering a  
134 contract that assigns primary liability to the contractor, the Pension Reserves Investment  
135 Management Board shall determine the potential liability and the costs and benefits of adding the  
136 liability considerations in this subsection (7) (c) (ii) to contract language.

137 (d) The state treasurer shall designate and define the terms of engagement for the  
138 custodial banks.

139 SECTION 8. Private employers shall provide employees with the opportunity to enroll in  
140 the program, including providing for payroll deductions for those employees that enroll in the  
141 program. Employers with employees enrolled in the program are authorized to contract with the



142 enrolled employees to defer or contribute a portion of the enrolled employees' compensation, in  
143 accordance with the program rules.

144 SECTION 9. The director shall report biennially to the relevant committees of the  
145 legislature on the effectiveness and efficiency of the program, including the levels of enrollment,  
146 the financial status of the program, and the retirement savings levels of participating enrollees.

147 SECTION 10. If any part of this act is found to be in conflict with federal requirements  
148 that are a prescribed condition to the allocation of federal funds to the state, the conflicting part  
149 of this act is inoperative solely to the extent of the conflict and with respect to the agencies  
150 directly affected, and this finding does not affect the operation of the remainder of this act in its  
151 application to the agencies concerned. Rules adopted under this act must meet federal  
152 requirements that are a necessary condition to the receipt of federal funds by the state.