

SENATE No. 624

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

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 to encourage retirement planning.

PETITION OF:

NAME:

Sal N. DiDomenico

DISTRICT/ADDRESS:

Middlesex and Suffolk

SENATE No. 624

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 624) of Sal N. DiDomenico for legislation to encourage retirement planning. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to encourage retirement planning.

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. Chapter 10 of the Massachusetts General Law is hereby amended by adding
2 after Section 35I the following new Section: “ Section 35I 1/2. The Massachusetts Secure Choice
3 Savings Program Act”.

4 SECTION 2. Unless the context requires a different meaning or as expressly provided in
5 this Section, all terms shall have the same meaning as when used in a comparable context in the
6 Internal Revenue Code. As used in this Act:

7 "Board" means the Massachusetts Secure Choice Savings Board established under this
8 Act.

9 "Department" means the Department of Revenue.

10 "Commissioner" means the Commissioner of Revenue.

11 "Employee" means any individual who is 18 years of age or older, who is employed by
12 an employer, and who has wages that are allocable to Massachusetts during a calendar year
13 under the provisions of Massachusetts General Laws, Chapter 62.

14 "Employer" means a person or entity engaged in a business, industry, profession, trade,
15 or other enterprise in the Commonwealth of Massachusetts, whether for profit or not for profit,
16 that (i) has at no time during the previous calendar year employed fewer than 5 employees in the
17 State, (ii) has been in business at least 2 years, and (iii) has not offered a qualified retirement
18 plan, including, but not limited to, a plan qualified under Section 401(a), Section 401(k), Section
19 403(a), Section 403(b), Section 408(k), Section 408(p), or Section 457(b) of the Internal
20 Revenue Code of 1986 in the preceding 2 years.

21 "Enrollee" means any employee or former employee who is enrolled in the Program.

22 "Fund" means the Massachusetts Secure Choice Savings Program Fund.

23 "Internal Revenue Code" means Internal Revenue Code of 1986, or any successor law, in
24 effect for the calendar year.

25 "IRA" means a Roth IRA (individual retirement account) under Section 408A or a
26 traditional IRA under Section 408 of the Internal Revenue Code.

27 "Participating employer" means an employer that provides a payroll deposit retirement
28 savings arrangement as provided for by this Act for its employees who are enrolled in the
29 Program.

30 "Payroll deposit retirement savings arrangement" means an arrangement by which a
31 participating employer allows enrollees to remit payroll deduction contributions to the Program.

32 "Program" means the Massachusetts Secure Choice Savings Program.

33 "Wages" means any compensation within the meaning of Section 219(f)(1) of the Internal
34 Revenue Code that is received by an enrollee from a participating employer during the calendar
35 year.

36 SECTION 3. A retirement savings program in the form of an automatic enrollment
37 payroll deduction IRA, known as the Massachusetts Secure Choice Savings Program, is hereby
38 established and shall be administered by the Board for the purpose of promoting greater
39 retirement savings for private-sector employees in a convenient, low-cost, and portable manner.

40 SECTION 4. (a) The Massachusetts Secure Choice Savings Program Fund is hereby
41 established as a trust outside of the State Treasurer's Office, with the Board as its trustee. The
42 Fund shall include the individual retirement accounts of enrollees, which shall be accounted for
43 as individual accounts. Moneys in the Fund shall consist of moneys received from enrollees and
44 participating employers pursuant to automatic payroll deductions and contributions to savings
45 made under this Act. The Fund shall be operated in a manner determined by the Board, provided
46 that the Fund is operated so that the accounts of enrollees established under the Program meet the
47 requirements for IRAs under the Internal Revenue Code.

48 (b) The amounts deposited in the Fund shall not constitute property of the
49 Commonwealth and the Fund shall not be construed to be a department, institution, or agency of
50 the Commonwealth. Amounts on deposit in the Fund shall not be commingled with
51 Commonwealth funds and the Commonwealth shall have no claim to or against, or interest in,
52 such funds.

53 SECTION 5. The Massachusetts Secure Choice Administrative Fund ("Administrative
54 Fund") is created as a nonappropriated, separate and apart trust fund in the State Treasurer's
55 Office. The Board shall use moneys in the Administrative Fund to pay for administrative
56 expenses it incurs in the performance of its duties under this Act. The Administrative Fund may
57 receive any grants or other moneys designated for administrative purposes from the State, or any
58 unit of federal or local government, or any other person, firm, partnership, or corporation. Any
59 interest earnings that are attributable to moneys in the Administrative Fund must be deposited
60 into the Administrative Fund.

61 SECTION 6. There is created the Massachusetts Secure Choice Savings Board.

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

63 (1) the State Treasurer, or his or her designee, who shall serve as chair;

64 (2) the State Comptroller, or his or her designee;

65 (3) the Secretary of the Commonwealth, or his or her designee;

66 (4) two public representatives with expertise in retirement savings plan administration or
67 investment, or both, appointed by the Governor;

68 (5) one representative of participating employers, appointed by the Governor;

69 (6) one representative of enrollees, appointed by the Secretary of the Commonwealth.

70 (b) Members of the Board shall serve without compensation but may be reimbursed for
71 necessary travel expenses incurred in connection with their Board duties from funds appropriated
72 for the purpose.

73 (c) The initial appointments shall be as follows: one public representative for 4 years; one
74 public representative for 2 years; the representative of participating employers for 3 years; and
75 the representative of enrollees for 1 year. Thereafter, all appointments shall be for terms of 4
76 years.

77 (d) A vacancy in the term of an appointed Board member shall be filled for the balance of
78 the unexpired term in the same manner as the original appointment.

79 (e) Each Board member, prior to assuming office, shall take an oath that he or she will
80 diligently and honestly administer the affairs of the Board and that he or she will not knowingly
81 violate or willingly permit to be violated any of the provisions of law applicable to the Program.

82 The oath shall be certified by the officer before whom it is taken and immediately filed in
83 the office of the Secretary of the Commonwealth.

84 SECTION 7. The Board, the individual members of the Board, the trustee appointed
85 under subsection (b) of Section 8, any other agents appointed or engaged by the Board, and all
86 persons serving as Program staff shall discharge their duties with respect to the Program solely in
87 the interest of the Program's enrollees and beneficiaries as follows:

88 (1) for the exclusive purposes of providing benefits to enrollees and beneficiaries and
89 defraying reasonable expenses of administering the Program; and

90 (2) by investing with the care, skill, prudence, and diligence under the prevailing
91 circumstances that a prudent person acting in a like capacity and familiar with those matters
92 would use in the conduct of an enterprise of a like character and with like aims.

93 SECTION 8. In addition to the other duties and responsibilities stated in this Act, the
94 Board shall:

95 (a) Cause the Program to be designed, established and operated in a manner that:

96 (1) accords with best practices for retirement savings vehicles;

97 (2) maximizes participation, savings, and sound investment practices;

98 (3) maximizes simplicity, including ease of administration for participating employers
99 and enrollees;

100 (4) provides an efficient product to enrollees by pooling investment funds; and

101 (5) ensures the portability of benefits.

102 (b) Appoint a trustee to the Program Fund in compliance with Section 408 of the Internal
103 Revenue Code.

104 (c) Explore investment options, subject to Section 11 of this Act, that offer enrollees
105 returns on contributions and the conversion of individual retirement savings account balances to
106 secure retirement income without incurring debt or liabilities to the State.

107 (d) Make and enter into contracts necessary for the administration of the Program and
108 Fund, including, but not limited to, retaining and contracting with investment managers, private
109 financial institutions, other financial and service providers, consultants, actuaries, counsel,
110 auditors, third-party administrators, and other professionals as necessary.

111 (e) Conduct a review of the performance of any investment vendors no less frequently
112 than every 4 years, including, but not limited to, a review of returns, fees, and customer service.

113 A copy of reviews conducted under this subsection shall be posted to the Board's Internet
114 website.

115 (f) Determine the number and duties of staff members needed to administer the Program
116 and assemble such a staff, including, as needed, employing staff, appointing a Program
117 administrator, and entering into contracts with the State Treasurer to make employees of the
118 State Treasurer's Office available to administer the Program.

119 (g) Cause moneys in the Fund to be held and invested as pooled investments with a view
120 to achieving cost savings through efficiencies and economies of scale.

121 (h) Evaluate and establish the process by which an enrollee is able to contribute a portion
122 of his or her wages to the Program for automatic deposit of those contributions and the process
123 by which the participating employer provides a payroll deposit retirement savings arrangement to
124 forward those contributions and related information to the Program, including, but not limited to,
125 contracting with financial service companies and third-party administrators with the capability to
126 receive and process employee information and contributions for payroll deposit retirement
127 savings arrangements or similar arrangements.

128 (i) Design and establish the process for enrollment under Section 14 of this Act, including
129 the default contribution rate, account type, investment option, and automatic escalation rate. The
130 Board shall also design and establish the process by which an employee can:

131 (1) opt not to participate in the Program; (2) select a contribution rate, account type,
132 investment option, or escalation rate different than the default options set by the Board; or (3)
133 terminate participation in the Program.

134 (j) Evaluate and establish the process by which an individual may voluntarily enroll in
135 and make contributions to the Program.

136 (k) Accept any grants, appropriations, or other moneys from the Commonwealth, any unit
137 of federal, State, or local government, or any other person, firm, partnership, or corporation
138 solely for deposit into the Fund, whether for investment or administrative purposes.

139 (l) Evaluate the need for, and procure as needed, insurance against any and all loss in
140 connection with the property, assets, or activities of the Program, and indemnify as needed each
141 member of the Board from personal loss or liability resulting from a member's action or inaction
142 as a member of the Board.

143 (m) Make provisions for the payment of administrative costs and expenses for the
144 creation, management, and operation of the Program. Subject to appropriation, the
145 Commonwealth may pay administrative costs associated with the creation and management of
146 the Program until sufficient assets are available in the Fund for that purpose. Thereafter, all
147 administrative costs of the Fund, including repayment of any start-up funds provided by the
148 State, shall be paid only out of moneys on deposit therein. However, private funds or federal
149 funding received in order to implement the Program until the Fund is self-sustaining shall not be
150 repaid unless those funds were offered contingent upon the promise of such repayment. The
151 Board shall keep annual administrative expenses as low as possible and is authorized to charge
152 and collect reasonable administrative fees from enrollees. (n) Allocate administrative fees to
153 individual retirement accounts in the Program on a pro rata basis.

154 (o) Set minimum and maximum contribution levels in accordance with limits established
155 for IRAs by the Internal Revenue Code.

156 (p) Facilitate education and outreach to employers and employees. Design and establish
157 an internet website for the Program with details for employers, employees, and enrollees.

158 (q) Facilitate compliance by the Program with all applicable requirements for the
159 Program under the Internal Revenue Code, including tax qualification requirements or any other
160 applicable law and accounting requirements.

161 (r) Carry out the duties and obligations of the Program in an effective, efficient, and low-
162 cost manner.

163 (s) Exercise any and all other powers reasonably necessary for the effectuation of the
164 purposes, objectives, and provisions of this Act pertaining to the Program.

165 (t) Deposit into the Massachusetts Secure Choice Administrative Fund all grants, gifts,
166 donations, fees, and earnings from investments from the Massachusetts Secure Choice Savings
167 Program Fund that are used to recover administrative costs. All expenses of the Board shall be
168 paid from the Massachusetts Secure Choice Administrative Fund.

169 SECTION 9. The Board shall prepare and adopt a written statement of investment policy
170 that includes a risk management and oversight program. This investment policy shall prohibit the
171 Board, Program, and Fund from borrowing for investment purposes. The risk management and
172 oversight program shall be designed to ensure that an effective risk management system is in
173 place to monitor the risk levels of the Program and Fund portfolio, to ensure that the risks taken
174 are prudent and properly managed, to provide an integrated process for overall risk management,
175 and to assess investment returns as well as risk to determine if the risks taken are adequately
176 compensated compared to applicable performance benchmarks and standards. The Board shall

177 consider the statement of investment policy and any changes in the investment policy at a public
178 hearing.

179 SECTION 10. (a) The Board shall engage, after an open bid process, an investment
180 manager or managers to invest the Fund and any other assets of the Program. Moneys in the
181 Fund may be invested or reinvested by the State Treasurer's Office or may be invested in whole
182 or in part under contract with the State Board of Investment, private investment managers, or
183 both, as selected by the Board. In selecting the investment manager or managers, the Board shall
184 take into consideration and give weight to the investment manager's fees and charges in order to
185 reduce the Program's administrative expenses.

186 (b) The investment manager or managers shall comply with any and all applicable federal
187 and state laws, rules, and regulations, as well as any and all rules, policies, and guidelines
188 promulgated by the Board with respect to the Program and the investment of the Fund, including,
189 but not limited to, the investment policy.

190 (c) The investment manager or managers shall provide such reports as the Board deems
191 necessary for the Board to oversee each investment manager's performance and the performance
192 of the Fund.

193 SECTION 11. (a) The Board shall establish as an investment option a life-cycle fund
194 with a target date based upon the age of the enrollee. This shall be the default investment option
195 for enrollees who fail to elect an investment option unless and until the Board designates by rule
196 a new investment option as the default.

197 (b) The Board may also establish additional investment options, including, but not limited
198 to, any of the following:

- 199 (1) a conservative principal protection fund;
- 200 (2) a growth fund;
- 201 (3) a secure return fund whose primary objective is the preservation of the safety of
202 principal and the provision of a stable and low-risk rate of return; if the Board elects to establish
203 a secure return fund, the Board may procure any insurance, annuity, or other product to insure
204 the value of individuals' accounts and guarantee a rate of return; the cost of such funding
205 mechanism shall be paid out of the Fund; under no circumstances shall the Board, Program,
206 Fund, the State, or any participating employer assume any liability for investment or actuarial
207 risk; the Board shall determine whether to establish such investment options based upon an
208 analysis of their cost, risk profile, benefit level, feasibility, and ease of implementation;
- 209 (4) an annuity fund.

210 SECTION 12. (a) The Board may enter into an intergovernmental agreement or
211 memorandum of understanding with the State and any agency of the State to receive outreach,
212 technical assistance, enforcement and compliance services, collection or dissemination of
213 information pertinent to the Program (subject to such obligations of confidentiality as may be
214 agreed or required by law), or other services or assistance. The State and any agencies of the
215 State that enter into such agreements or memoranda of understanding shall collaborate to provide
216 the outreach, assistance, information, and compliance or other services or assistance to the
217 Board. The memoranda of understanding may cover the sharing of costs incurred in gathering
218 and disseminating information and the reimbursement of costs for any enforcement activities or
219 assistance.

220 (b) All agencies of the Commonwealth shall cooperate as requested by the Program in the
221 performance of its duties under this Act, including, unless otherwise prohibited, the sharing of
222 relevant data as the parties shall mutually agree.

223 (c) The Board shall assess the feasibility of multistate or regional agreements to
224 administer the Program through shared administrative and operational resources and may enter
225 into those agreements if deemed beneficial to the Program.

226 Section 13. (a) The Board shall design and disseminate an employer information packet
227 and an employee information packet, which shall include background information on the
228 Program, appropriate disclosures for employees, and information regarding the Internet website
229 described in Section 8 of this Act.

230 (b) The employee information packet shall include a disclosure form. The disclosure
231 form shall explain, but not be limited to, all of the following:

232 (1) the benefits and risks associated with making contributions to the Program;

233 (2) the mechanics of how to make contributions to the Program;

234 (3) how to opt out of the Program;

235 (4) how to participate in the Program with a level of employee contributions other than
236 the default contribution rate.

237 (5) the process for withdrawal of retirement savings;

238 (6) how to obtain additional information about the Program;

239 (7) that employees seeking financial advice should contact financial advisors, that
240 participating employers are not in a position to provide financial advice, and that participating
241 employers are not liable for decisions employees make pursuant to this Act;

242 (8) that the Program is not an employer-sponsored retirement plan; and

243 (9) that the Program Fund is not guaranteed by the Commonwealth.

244 (c) The employee information packet shall also include a form for an employee to note
245 his or her decision to opt out of participation in the Program or elect to participate with a level of
246 employee contributions other than the default rate set by the Board.

247 (d) Participating employers shall supply the employee information packet to employees
248 after the employer has registered for the Program. Participating employers shall supply the
249 employee information packet to new employees at the time of hiring, and new employees may
250 opt out of participation in the Program or elect to participate with a level of employee
251 contributions other than the default contribution rate at that time.

252 SECTION 14. The Program shall be implemented, and enrollment of employees shall
253 begin, within 24 months after the effective date of this Act. The provisions of this Section shall
254 be in force after the Board opens the Program for enrollment.

255 (a) Each employer shall establish a payroll deposit retirement savings arrangement to
256 allow each employee to participate in the Program on a timeline set by the Board.

257 (b) Employers shall automatically enroll in the Program each of their employees who has
258 not opted out of participation in the Program and shall provide payroll deduction retirement
259 savings arrangements and deposit, on behalf of such employees, these funds into the Program.

260 (c) Enrollees shall have the ability to select a contribution level into the Fund. This level
261 may be expressed as a percentage of wages or as a dollar amount up to the deductible amount for
262 the enrollee's taxable year under Section 219(b)(1)(A) of the Internal Revenue Code. Enrollees
263 may change their contribution level at any time, subject to rules promulgated by the Board. If an
264 enrollee fails to select a contribution level using the form prescribed by the Board, then he or she
265 shall contribute the default contribution rate of his or her wages to the Program.

266 (d) Enrollees may select an investment option from the permitted investment options
267 listed in Section 11 of this Act. Enrollees may change their investment option at any time,
268 subject to rules promulgated by the Board. In the event that an enrollee fails to select an
269 investment option, that enrollee shall be placed in the investment option selected by the Board as
270 the default.

271 (e) Employers shall retain the option at all times to set up any type of employer-
272 sponsored retirement plan, such as a defined benefit plan or a 401(k), Simplified Employee
273 Pension (SEP) plan, or Savings Incentive Match Plan for Employees (SIMPLE) plan, instead of
274 having a payroll deposit retirement savings arrangement to allow employee participation in the
275 Program.

276 (f) An enrollee may terminate his or her participation in the Program at any time in a
277 manner prescribed by the Board.

278 SECTION 15. Employee contributions deducted by the participating employer through
279 payroll deduction shall be paid by the participating employer to the Fund using one or more
280 payroll deposit retirement savings arrangements established by the Board, either:

281 (1) on or before the last day of the month following the month in which the compensation
282 otherwise would have been payable to the employee in cash; or

283 (2) before such later deadline prescribed by the Board for making such payments, but not
284 later than the due date for the deposit of tax required to be deducted and withheld relating to
285 collection of income tax at source on wages or for the deposit of tax required to be paid under the
286 unemployment insurance system for the payroll period to which such payments relate.

287 SECTION 16. (1) The State, the Board, each member of the Board or other State official,
288 other State boards, commissions, or agencies, any member, officer, or employee thereof, and the
289 Program --

290 (a) have no responsibility for compliance by individuals with the conditions and other
291 provisions of the Internal Revenue Code that determine which individuals are eligible to make
292 tax-favored contributions to IRAs, in what amount, and in what time frame and manner,

293 (b) have no duty, responsibility, or liability to any party for the payment of any benefits
294 under the Program, regardless of whether sufficient funds are available under the Program to pay
295 such benefits,

296 (c) do not and shall not guarantee any interest rate or other rate of return on or investment
297 performance of any contribution or account balance, and

298 (d) are not and shall not be liable or responsible for any loss, deficiency, failure to realize
299 any gain, or any other adverse consequences, including without limitation any adverse tax
300 consequences or loss of favorable tax treatment, public assistance or other benefits, incurred by
301 any person as a result of participating in the Program.

302 (2) The debts, contracts, and obligations of the Program or the Board are not the debts,
303 contracts, and obligations of the State, and neither the faith and credit nor the taxing power of the
304 State is pledged directly or indirectly to the payment of the debts, contracts, and obligations of
305 the Program or the Board.

306 SECTION 17. (a) Participating employers shall not have any liability for an employee's
307 decision to participate in, or opt out of, the Program or for the investment decisions of the Board
308 or of any enrollee.

309 (b) A participating employer shall not be a fiduciary, or considered to be a fiduciary, over
310 the Program. A participating employer shall not bear responsibility for the administration,
311 investment options, or investment performance of the Program. A participating employer shall
312 not be liable with regard to investment returns, Program design, and benefits paid to Program
313 participants.

314 SECTION 18. (a) The Board shall annually submit:

315 (1) an audited financial report, prepared in accordance with generally accepted
316 accounting principles, on the operations of the Program during each calendar year by July 1 of
317 the following year to the Comptroller, Secretary of the Commonwealth, and the State Treasurer.

318 (2) a report prepared by the Board, which shall include, but is not limited to, a summary
319 of the benefits provided by the Program, including the number of enrollees in the Program, the
320 percentage and amounts of investment options and rates of return, and such other information
321 that is relevant to make a full, fair, and effective disclosure of the operations of the Program and
322 the Fund. The annual audit shall be made by an independent certified public accountant and shall
323 include, but is not limited to, direct and indirect costs attributable to the use of outside

324 consultants, independent contractors, and any other persons who are not State employees for the
325 administration of the Program.

326 (b) In addition to any other statements or reports required by law, the Board shall provide
327 periodic reports at least annually to enrollees, reporting contributions and investment income
328 allocated to, withdrawals from, and balances in their Program accounts for the reporting period.
329 Such reports may include any other information regarding the Program as the Board may
330 determine.

331 SECTION 19. Penalties.

332 (a) An employer who fails without reasonable cause to enroll an employee in the Program
333 within the time prescribed under this Act shall be subject to a penalty equal to:

334 (1) \$250 for each employee for each calendar year or portion of a calendar year during
335 which the employee neither was enrolled in the Program nor had elected out of participation in
336 the Program; and the employee or any appropriate official of the State may bring a civil action to
337 require the employer to enroll the employee and shall recover such costs and reasonable
338 attorney's fees as may be allowed by the court; and

339 (2) for each calendar year beginning after the date a penalty has been assessed with
340 respect to an employee, \$500 for any portion of that calendar year during which such employee
341 continues to be unenrolled without electing out of participation in the Program.

342 (3) No penalty shall be imposed under subsection 19(a) on any failure for which it is
343 established that the employer subject to liability for the penalty did not know that the failure
344 existed and exercised reasonable diligence to meet the requirements of this Act.

345 (4) No penalty shall be imposed under subsection 19(a) on any failure if:

346 (A) the employer subject to liability for the penalty exercised reasonable diligence to
347 meet those requirements; and

348 (B) the employer complies with those requirements with respect to each employee by the
349 end of the 90-day period beginning on the first date the employer knew, or exercising reasonable
350 diligence would have known, that the failure existed.

351 (5) In the case of a failure that is due to reasonable cause and not to willful neglect, all or
352 part of the penalty may be waived to the extent that the payment of the penalty would be
353 excessive or otherwise inequitable relative to the failure involved.

354 (6) Provide that, if a participating employer fails to transmit a payroll deduction
355 contribution to the Program on the earliest date the amount withheld from the enrollee's
356 compensation can reasonably be segregated from the participating employer's assets, but not
357 later than the 15th day of the month following the month in which the enrollee's contribution
358 amounts are withheld from his or her paycheck, the failure to remit such contributions on a
359 timely basis shall be subject to the same sanctions as employer misappropriation of employee
360 wage withholdings and to the penalties specified in subsection 19(a) above.

361 (b) Except as provided in this subsection, all information received by the Department
362 from returns filed by an employer or from any investigation conducted under the provisions of
363 this Act shall be confidential, except for official purposes within the Department or pursuant to
364 official procedures for collection of penalties assessed under this Act. Nothing contained in this
365 subsection shall prevent the Commissioner from publishing or making available to the public
366 reasonable statistics concerning the operation of this Act wherein the contents of returns are

367 grouped into aggregates in such a way that the specific information of any employer shall not be
368 disclosed. Nothing contained in this subsection shall prevent the Commissioner from divulging
369 information to an authorized representative of the employer or to any person pursuant to a
370 request or authorization made by the employer or by an authorized representative of the
371 employer.

372 (c) Civil penalties collected under this Act and fees collected pursuant to subsection (d)
373 of this Section shall be deposited into the Tax Compliance and Administration Fund. The
374 Department may, subject to appropriation, use moneys in the fund to cover expenses it incurs in
375 the performance of its duties under this Act. Interest attributable to moneys in the Tax
376 Compliance and Administration Fund shall be credited to the Tax Compliance and
377 Administration Fund.

378 (d) The Department may charge the Board a reasonable fee for its costs in performing its
379 duties under this Section to the extent that such costs have not been recovered from penalties
380 imposed under this Section.

381 (e) This Section shall go into effect 9 months after the Board notifies the Commissioner
382 that the Program has been implemented. Upon receipt of such notification from the Board, the
383 Department shall immediately post on its Internet website a notice stating that this Section is in
384 effect. This notice shall include a statement that rather than enrolling employees in the Program
385 under this Act, employers may sponsor an alternative arrangement, including, but not limited to,
386 a defined benefit plan, 401(k) plan, a Simplified Employee Pension (SEP) plan, or a Savings
387 Incentive Match Plan for Employees (SIMPLE) plan. The Board shall provide a link to the
388 vendor Internet website.

389 SECTION 20. The Department shall adopt rules and regulations, in accordance with the
390 Massachusetts Administrative Procedure Act (Mass. Gen. Laws Ch. 30A), that may be necessary
391 to implement this Act.

392 SECTION 21. If the Board does not obtain adequate funds to implement the Program
393 within the time frame set forth under Section 14 of this Act, the Board may delay the
394 implementation of the Program.

395 SECTION 22. The Board shall request in writing an opinion or ruling from the
396 appropriate entity with jurisdiction over the federal Employee Retirement Income Security Act
397 regarding the applicability of the federal Employee Retirement Income Security Act to the
398 Program. The Board may not implement the Program if the IRA arrangements offered under the
399 Program fail to qualify for the favorable federal income tax treatment ordinarily accorded to
400 IRAs under the Internal Revenue Code or if it is determined that the Program is an employee
401 benefit plan and State or employer liability is established under the federal Employee Retirement
402 Income Security Act.