

SB3278



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3278

Introduced 2/7/2012, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Automatic IRA Program Act. Provides that the Illinois Automatic IRA Program shall be administered by the State Treasurer and that the Treasurer shall adopt regulations to implement the Program. Allows employees of certain employers that have not offered a qualified retirement plan for 2 years to set aside a percentage of their wages to be deposited into an IRA trust fund administered by the State Treasurer's office. Sets minimum requirements for the operation of the Program. Sets forth duties and authority of the State Treasurer in relation to the Program. Limits State and employer liability. Contains provisions regarding audits and reports. Effective immediately.

LRB097 19762 JLS 65025 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Automatic IRA Program Act.

6 Section 5. Definitions. As used in this Act, unless the
7 context requires a different meaning:

8 "Compensation" means remuneration paid to a participant
9 for services rendered to his or her employer.

10 "Employee" means any individual who performs or performed
11 any service on behalf of a business operating in the State of
12 Illinois.

13 "Employer" means any business operating in the State of
14 Illinois for whom an individual performs or performed any
15 service as an employee and that has more than 10 and less than
16 100 employees and that does not and has not for the previous 2
17 years offered a qualified retirement plan to its employees.

18 "Enrollee" means any employee who is enrolled in the
19 Program.

20 "Fund" means the Illinois Automatic IRA Program Fund.

21 "IRA" means an individual retirement account under Section
22 408 of the Internal Revenue Code.

23 "Participating employer" means any qualified small

1 employer with employees that are enrolled in the Program.

2 "Program" means the Illinois Automatic IRA Program.

3 "Qualified small employer" means an employer located in the
4 State of Illinois that (i) employed at least 10 employees
5 during the previous calendar year, (ii) has been in business
6 for a period of at least 2 years after the enactment of this
7 Act, (iii) did not offer a qualified retirement plan,
8 including, but not limited to, a plan qualified under Section
9 401(a), Section 401(k), Section 403(a), Section 403(b),
10 Section 408(k), Section 408(p), or Section 457(b) of the
11 Internal Revenue Code for the 2 years prior to the effective
12 date of this Act.

13 Section 10. Establishment of Illinois Automatic IRA
14 Program. There is hereby established a retirement savings
15 program known as the Illinois Automatic IRA Program to be
16 administered by the State Treasurer with the intent of
17 promoting greater retirement savings for private sector
18 employees in a convenient, low-cost, and portable manner.

19 Section 15. Illinois Automatic IRA Program Fund.

20 (a) There is established the Illinois Automatic IRA Program
21 Fund to finance the program created by this Act. The assets of
22 the Fund shall be administered by the State Treasurer's office
23 as trust funds and shall be used exclusively for the purposes
24 of administering the Program, including the design and

1 qualification of the Program, supporting the administrative
2 cost of establishing the Program and providing information
3 about the Program.

4 (b) The Fund shall include the individual accounts of
5 enrollees, which shall be accounted for as individual accounts.

6 (c) Moneys in the Fund shall consist of moneys received
7 from enrollees and participating employers pursuant to
8 automatic payroll deductions and contributions to savings made
9 under this Act, grants from the United States government and
10 its agencies and instrumentalities, and any other available
11 sources of funds, public or private. Interest and income earned
12 from the investment of such funds shall remain in the Fund and
13 be credited to it.

14 Section 20. Operation of Program.

15 (a) The Program shall be administered by the State
16 Treasurer, or his or her designee, and prior to accepting any
17 enrollees or funds the State Treasurer shall design a plan of
18 operation for the Program, which plan of operation shall be
19 approved by the Internal Revenue Service to offer the Program
20 to enrollees on a tax-qualified basis. The Program shall
21 include an option for enrollees to roll pre-tax contributions
22 into an individual retirement account or other eligible
23 retirement plan after ceasing participation in the Program.

24 (b) In designing the plan of operation for the Program, the
25 State Treasurer shall consult with employers, workers, private

1 sector retirement plan administrators and providers, and any
2 other persons that the State Treasurer determines relevant to
3 the development of an effective and efficient method of
4 operating the Program.

5 (c) The plan of operation for the Program shall include, at
6 a minimum, the following elements:

7 (1) a payroll deduction IRA arrangement for employees
8 of qualified small employers wherein a qualified small
9 employer shall deduct a default amount of 2% from an
10 employee's salary, or such other percentage as an employee
11 has elected, and deposit it into the Fund;

12 (2) the ability for the State Treasurer to enter into
13 an administrative service arrangement that will allow
14 participating employers to achieve economies of scale for
15 pension or retirement savings arrangements relating to
16 accounting, investment, payroll processing employee
17 communication, or investor education;

18 (3) the ability for each enrolled employee to
19 periodically elect to contribute up to a set percentage of
20 his or her compensation or a dollar amount to the Fund;
21 provided, however, if an election is not made the Program
22 administrator shall select a default contribution option
23 on behalf of the employee;

24 (4) the ability for each enrolled employee to direct
25 the investment of such enrollee's contribution and be
26 entitled to make investment choices within available

1 categories of investments provided through the Program;
2 provided, however, that if an enrollee does not select an
3 investment option then the Program administrator shall
4 select a default investment option on behalf of the
5 employee;

6 (5) the ability for the State Treasurer to contract,
7 after an open bid process, with a third-party administrator
8 for the management of the Fund and any other assets of the
9 Program and whose fees shall be reasonable and shall be
10 paid from the Fund and the Program's assets;

11 (6) a requirement that each retirement plan or account
12 shall pay a proportionate share of the expenses incurred to
13 implement, maintain, and administer the Program; and

14 (7) a provision that the State Treasurer, his or her
15 designee, any other employees or agents of the Program, or
16 any investment manager shall not have any liability with
17 respect to investment returns under any retirement plan.

18 Section 25. Duties and authority of State Treasurer. The
19 State Treasurer shall have the authority and responsibility to
20 carry out the following duties:

21 (1) administer the Fund and the Program, including the
22 authority to invest moneys in the Fund in any instruments,
23 obligations, securities, or property deemed appropriate by
24 the State Treasurer;

25 (2) apply for, accept, and expend gifts, grants, or

1 other donations from public or private sources to enable it
2 to carry out the objectives of the Program;

3 (3) enter into contractual agreements, including
4 contracts for legal, actuarial, financial and consulting
5 services;

6 (4) develop strategies to inform the public of the
7 availability and desirability of the Program, including
8 education about the need to accumulate financial resources
9 for retirement, available options for financing
10 retirement, and basic information about investing
11 strategies; and

12 (5) engage in such other activities are necessary to
13 implement and administer the Program.

14 Section 30. Duties of qualified small employers. Qualified
15 small employers shall automatically enroll their employees in
16 the Program and provide payroll deductions for such employees.

17 Section 35. Regulations. The State Treasurer shall adopt
18 such regulations and procedures as may be necessary to
19 implement the Program. As part of the regulation development
20 process, the State Treasurer shall consult with employers,
21 workers, private sector retirement plan administrators and
22 providers, and any other individuals or entities that it
23 determines relevant to the development of an effective and
24 efficient method for operating the Program. Regulations shall

1 be adopted, including, at a minimum, requirements of
2 enrollment, contribution and investment requirements, as
3 necessary to implement and administer the Program.

4 Section 40. Liability. Neither the State of Illinois nor
5 any State board, commission, or agency, or any officer,
6 employee, or member of the same shall be liable for any loss or
7 deficiency resulting from investment selected by an enrollee.
8 An employer shall not be liable for any loss or deficiency
9 resulting from making default payroll deductions or default
10 investment decisions on behalf of an employee.

11 Section 45. Audits and reports. The accounts and records of
12 the State Treasurer showing the receipt and disbursement of
13 funds, from whatever source derived, in connection with the
14 Program be available for audit on as frequent a basis as
15 prescribed by regulations enacted under this Act. The State
16 Treasurer shall issue an annual report on the status of the
17 Program prior to December 1 of each year.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.