

**HOUSE . . . . . No. 3754**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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An Act to provide retirement options for nonprofit organizations.

*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 29 of the General Laws, as appearing in the 2008 Official Edition,  
2 is hereby amended by inserting after section 64D the following section:-

3           Section 64E. (a) As used in this section, the term "not-for-profit employer" shall include  
4 eligible organizations incorporated under section 501(c) of the Internal Revenue Code, but does  
5 not include a governmental employer.

6           (b) The state treasurer may conduct research regarding the current status of retirement  
7 programs available to not-for-profit employees and the appeal of creating a program for their  
8 benefit.

9           (c) The treasurer and receiver general, on behalf of the commonwealth, may sponsor a  
10 qualified defined contribution plan within the meaning of section 414(i) of the Internal Revenue  
11 Code, in this section called the Code, that may be adopted by not-for-profit employers for their  
12 employees in accordance with section 401(a) of the Code, regulations provided under that  
13 section and applicable guidance from the Internal Revenue Service. The treasurer shall obtain

14 approval from the Internal Revenue Service with respect to the plan and shall ensure the  
15 administration of the plan is in compliance with the Code and other applicable federal and state  
16 laws including the Employee Retirement Income Security Act of 1974, in this section called  
17 ERISA.

18         The plan shall provide for a qualified trust under said section 401(a), with contributions  
19 made to the trust by the not-for-profit employer, the employer's employees, or both. Under the  
20 trust instrument, any part of the corpus or income shall not be used for, or diverted to, purposes  
21 other than the exclusive benefit of employees or their beneficiaries at any time prior to the  
22 satisfaction of all liabilities with respect to employees and their beneficiaries. In order to  
23 participate in the plan, a not-for-profit employer shall execute a participation agreement, agree to  
24 the terms of the plan and operate the plan in compliance with the Code and ERISA. The treasurer  
25 may require that the not-for-profit employer sign a service agreement and use forms and  
26 procedures prescribed by the treasurer. The treasurer may also require that certain employers  
27 seek approval of their plans from the Internal Revenue Service.

28         (d) The treasurer may contract with practitioners, administrators, investment managers  
29 and other entities, including the Pension Reserves Investment Management Board, in order to  
30 design, administer and provide investment options under the plan. The treasurer shall, before  
31 making any such contract, solicit bids from companies authorized to conduct business within the  
32 commonwealth, which shall be sealed and opened at a time and place designated by the  
33 treasurer. A submitted bid shall, where applicable, clearly indicate the interest rate which shall  
34 be paid on the deferred funds, any commissions which shall be paid to salespersons, any load  
35 imposed for the purpose of administering the funds, mortality projections, expected payouts, tax  
36 implications for participating employees and such other information as the treasurer may require.

37 A contract entered into between an employee and the not-for-profit employer pursuant to this  
38 section shall include all such information in terms the employee can reasonably be expected to  
39 understand. Upon a determination by the treasurer as to which provider offers the investment  
40 options most beneficial to the employee in each category for which bids were solicited, the  
41 employee may choose the investment option for the employee's account.

42 Notwithstanding any provision to the contrary, the treasurer shall not be required to  
43 solicit bids to invest the contributed portion of an employee's income into the employee's defined  
44 contribution plan account provided: (i) that the treasurer is authorized by the employee to pay  
45 that portion of the employee's compensation into the employee's defined contribution plan  
46 account in the same investment products as provided through a deferred compensation plan for  
47 employees of the commonwealth administered by the treasurer, and (ii) that such plan resulted  
48 from the solicitation of bids in accordance with the requirements under this section.

49 (e) There shall be in the office of the treasurer and receiver general a not-for-profit  
50 defined contribution committee. The committee shall consist of the treasurer or a designee, who  
51 shall serve as chairperson, and 4 additional members appointed by the treasurer, 2 of whom shall  
52 have practical experience in the human services, educational or public and societal benefit sector  
53 of the non-profit community and 2 of whom shall be currently employed by not-for-profit  
54 corporations. Each member shall be appointed for a term of 3 years and shall be eligible for  
55 reappointment. In the case of a vacancy, a successor shall be appointed for a full term or for the  
56 unexpired portion thereof, as the case may be. A member of the committee shall be eligible for  
57 reappointment. The committee shall annually elect 1 of its members to serve as vice-  
58 chairperson. The committee shall meet from time to time and assist the treasurer in the  
59 development of general policy regarding the program, and shall provide technical advice and

60 input to the state treasurer. The members of the committee shall serve without compensation, but  
61 shall be reimbursed for necessary expenses incurred in the performance of their duties.

62 (f) The treasurer is hereby authorized to adopt rules and regulations related to this section  
63 and do all things convenient to carry out the provisions and purposes of this section.

64 SECTION 2. Notwithstanding any general or special law to the contrary, in making his  
65 initial appointments to the not-for-profit defined contribution committee pursuant to section 64E  
66 of chapter 29 of the General Laws, the treasurer shall appoint 1 member currently employed by a  
67 not-for-profit corporation to serve for a term of 2 years.