

HOUSE No. 2517

The Commonwealth of Massachusetts

PRESENTED BY:

Ann-Margaret Ferrante

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 the SMART Plan.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	<i>1/18/2023</i>
<i>Deborah B. Goldberg</i>	<i>Office of the State Treasurer and Receiver General</i>	<i>1/19/2023</i>

HOUSE No. 2517

By Representative Ferrante of Gloucester, a petition (accompanied by bill, House, No. 2517) of Ann-Margaret Ferrante and Deborah B. Goldberg (Treasurer and Receiver General) relative to employees whose compensation is sourced from the deferred compensation program SMART Plan. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2643 OF 2021-2022.]

The Commonwealth of Massachusetts

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

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 2020
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

authorization for a payroll deduction or any similar ordinance of a governmental body. The details of the automatic enrollment feature shall be set forth in the deferred compensation plan document and shall include, but not be limited to, the following provisions:

(a) automatic enrollment shall apply only to new employees of the commonwealth, meaning employees hired on or after June 1, 2022; provided, however, that for any commonwealth agencies or departments that purchase or make payments to an individual or group annuity contract, custodial account, or any other investment authorized under section 403(b) of the Internal Revenue Code for its employees, automatic enrollment shall only apply at said agency's or department's discretion and affirmative election;

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

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

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

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

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

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

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

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

The treasurer or, in the absence of the treasurer, the chief financial officer by whatever name that person is called, on behalf of a governmental body, may, at its own election, implement an automatic enrollment feature within its deferred compensation program established pursuant to this section 64B, chapter 29. The automatic enrollment feature shall not require advance authorization by an employee and is hereby deemed to be an exception to the provisions of the Massachusetts Wage Act or any other state law requiring employee authorization for a payroll deduction or any similar ordinance of a governmental body. Subject to the election of each governmental body, any such auto enrollment feature permitted as a part of a governmental body's deferred compensation program shall only apply to new employees of a governmental body hired on or after June 1, 2022 and such deferred compensation program will be required to include the specifications for auto enrollment detailed in subsections (b) through (h), inclusively, of section 64 of chapter 29 of said General Laws.