

HOUSE No. 4248

Sections 20, 23 and 110 contained in the engrossed Bill making appropriations for the fiscal year 2026 (see House, No. 4240), which had been returned by Her Excellency the Governor with recommendation of amendment (for message, see Attachment B of House, No. 4250). July 4, 2025.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to retirement savings.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish retirement savings, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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 is hereby amended by inserting after
2 section 2KKKKKK the following section:-

3 Section 2LLLLLL. (a) There is hereby established in the office of the state treasurer a
4 separate, non-budgeted special revenue fund known as the Massachusetts Secure Choice Savings
5 Fund which shall be administered by the state treasurer. The fund shall be credited with: (i)
6 money from the payment of fees, penalties and other payments due to the Massachusetts secure
7 choice savings program established in section 64H; (ii) appropriations or other money authorized
8 or transferred by the general court and specifically designated to be credited to the fund and any
9 funds appropriated by the federal or local governments; (iii) private contributions and publicly or

10 privately-funded grants; and (iv) any interest earned on the assets of the fund. Monies in the fund
11 that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be
12 available for expenditure in the subsequent fiscal year. Section 38 shall not apply to any
13 investment of the fund.

14 (b) The fund shall cover all expenses associated with the administration of the
15 Massachusetts secure choice savings program not otherwise covered by the program, including,
16 but not limited to, expenses related to program compliance and oversight responsibilities.

17 (c) The Massachusetts secure choice savings board, as established in section 64G, shall
18 establish guidelines regarding administration of the fund.

19 SECTION 2. Said chapter 29 is hereby further amended by inserting after section 64E
20 the following 5 sections:-

21 Section 64F. For the purposes of this section and sections 64G through 64J, inclusive,
22 the following words shall, unless the context clearly requires otherwise, have the following
23 meanings:

24 “Board”, the Massachusetts secure choice savings board established pursuant to section
25 64G.

26 “Code”, as defined in section 1 of chapter 62.

27 “Commissioner”, the commissioner of revenue.

28 “Department”, the department of revenue.

29 “Employee”, any individual who: (i) is 18 years of age or older; (ii) is employed by an
30 employer; and (iii) has wages that are allocable to the commonwealth during a calendar year
31 under chapter 62.

32 “Employer”, a person or entity engaged in a business, industry, profession, trade or other
33 enterprise in the commonwealth, whether for-profit or not-for-profit, that has: (i) at no time
34 during the previous calendar year employed fewer than 25 employees in the commonwealth; (ii)
35 been in business not less than 2 years; and (iii) not offered a qualified retirement plan, including,
36 but not limited to, a plan qualified under sections 401(a), 401(k), 403(a), 403(b), 408(k), 408(p)
37 or 457(b) of the Code in the preceding 2 calendar years.

38 “Enrollee”, any employee or former employee who is enrolled in the program.

39 “Fund”, the Massachusetts Secure Choice Savings Fund, established pursuant to section
40 2LLLLLL.

41 “IRA”, an individual retirement account that is either a: (i) Roth IRA, under section 408A
42 of the Code; or (ii) individual retirement account under section 408 of the Code.

43 “Participating employer”, an employer that provides a payroll deposit retirement savings
44 arrangement as provided for by section 64I for its employees who are enrolled in the program.

45 “Payroll deposit retirement savings arrangement”, an arrangement by which a
46 participating employer allows enrollees to remit payroll deduction contributions to the program.

47 “Program”, the Massachusetts secure choice savings program, established pursuant to
48 section 64H.

49 “Wages”, any compensation within the meaning of section 219(f)(1) of the Code that is
50 received by an enrollee from a participating employer during the calendar year.

51 Section 64G. (a)(1) There is hereby established the Massachusetts secure choice savings
52 board. The board shall consist of the following 5 members: the state treasurer or a designee, who
53 shall serve as chair; the comptroller or a designee; the secretary of the commonwealth or a
54 designee; a public representative with expertise in retirement savings plan administration or
55 investment, or both, who is representative of participating employees, appointed by the governor;
56 and a public representative with expertise in retirement savings plan administration or
57 investment, or both, who is representative of participating employers, appointed by the state
58 treasurer.

59 (2) Each member shall be appointed for a term of 4 years; provided, however, that the
60 public representative of employers shall be appointed initially for a term of 3 years; and provided
61 further, that all members shall be eligible for reappointment. A vacancy in the term of an
62 appointed board member shall be filled for the balance of the unexpired term in the same manner
63 as the original appointment. Members of the board shall serve without compensation but shall be
64 reimbursed for reasonable expenses incurred in the performance of their official duties.

65 (3) The board may appoint or engage agents. The board, the individual members of the
66 board, any other agents appointed or engaged by the board and all persons serving as program
67 staff shall discharge their duties with respect to the program solely in the interest of the
68 program’s enrollees and beneficiaries.

69 (b) The board shall be responsible for ongoing fiduciary administrative oversight of the
70 program for the purpose of promoting greater retirement savings for private-sector employees in
71 a convenient, low-cost and portable manner, pursuant to subsection (a) of section 64H.

72 (c) The board shall report annually to the state treasurer, governor, comptroller, secretary
73 of the commonwealth and the house and senate committees on ways and means. The report shall
74 include, but shall not be limited to: (i) an audited financial report, prepared in accordance with
75 generally accepted accounting principles; (ii) a summary of the benefits provided by the
76 program, including the number of enrollees; and (iii) the percentage and amounts of investment
77 options and rates of return.

78 (d) All agencies of the commonwealth shall cooperate as requested by the board in the
79 performance of their duties under this section, including, unless otherwise prohibited, the sharing
80 of relevant data as the parties shall mutually agree.

81 Section 64H. (a) There is hereby established in the office of the state treasurer the
82 Massachusetts secure choice savings program, subject to appropriation. The program shall be
83 developed and administered by the state treasurer with ongoing fiduciary administrative
84 oversight provided by the board for the purpose of promoting greater retirement savings for
85 private-sector employees in a convenient, low-cost and portable manner.

86 (b)(1) The state treasurer shall design, establish and operate the program in a manner
87 that: (i) accords with best practices for retirement savings vehicles; (ii) maximizes participation,
88 savings and sound investment practices; (iii) maximizes simplicity, including ease of
89 administration for participating employers and enrollees; (iv) provides an efficient product to
90 enrollees by pooling investment funds; and (v) ensures the portability of benefits.

91 (2) The state treasurer and the department shall maintain, on their websites, information
92 for employers on the requirements of the program and information on retirement plans an
93 employer may offer as an alternative to the program, including, but not limited to, a defined
94 benefit plan, 401(k) plan, a Simplified Employee Pension (SEP) plan or a Savings Incentive
95 Match Plan for Employees (SIMPLE) plan.

96 (c) The state treasurer shall request, in writing, an opinion or ruling from the appropriate
97 entity with jurisdiction over the federal Employee Retirement Income Security Act regarding the
98 applicability of the federal Employee Retirement Income Security Act to the program. The state
99 treasurer shall not implement the program if the IRA arrangements offered under the program
100 fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under
101 the Code or if it is determined that the program is an employee benefit plan and state or employer
102 liability is established under the federal Employee Retirement Income Security Act.

103 (d) The state treasurer shall prepare a written statement of investment policy that
104 includes a risk management and oversight program for consideration and adoption by the board.

105 (e) The state treasurer may contract with practitioners, administrators, investment
106 managers and other entities to design, administer and provide investment options under the
107 program. Any practitioner, administrator, investment manager or other entity with which the
108 state treasurer contracts shall comply with all applicable federal and state laws, rules and
109 regulations and all rules, policies and guidelines promulgated by the board with respect to the
110 program and the investment of the fund, including, but not limited to, the investment policy. Any
111 practitioner, administrator, investment manager or other entity with which the state treasurer
112 contracts shall provide such reports as the board deems necessary to assess performance.

113 (f) The state treasurer shall assess the feasibility of multistate or regional agreements to
114 administer the program through shared administrative and operational resources and may enter
115 into those agreements if deemed beneficial to the program.

116 (g)(1) The commonwealth, the board, each member of the board or other commonwealth
117 official, other commonwealth boards, commissions or agencies, or any member, officer or
118 employee thereof, and the program: (i) shall have no responsibility for compliance by individuals
119 with the conditions and other provisions of the Code that determine which individuals are
120 eligible to make tax-favored contributions to IRAs, in what amount and in what time frame and
121 manner; (ii) shall have no duty, responsibility or liability to any party for the payment of any
122 benefits under the program, regardless of whether sufficient funds are available under the
123 program to pay such benefits; (iii) do not and shall not guarantee any interest rate or other rate of
124 return on or investment performance of any contribution or account balance; and (iv) are not and
125 shall not be liable or responsible for any loss, deficiency, failure to realize any gain or any other
126 adverse consequences, including, but not limited to, any adverse tax consequences or loss of
127 favorable tax treatment, public assistance or other benefits incurred by any person as a result of
128 participating in the program.

129 (2) The debts, contracts and obligations of the program shall not be considered the debts,
130 contracts and obligations of the commonwealth, and neither the faith and credit nor the taxing
131 power of the commonwealth shall be pledged directly or indirectly to the payment of the debts,
132 contracts and obligations of the program.

133 (3) Participating employers shall not have any liability for an employee's decision to
134 participate in, or opt out of, the program or for the investment decisions of the board or of any
135 enrollee.

136 (4) A participating employer shall not be a fiduciary, or considered to be a fiduciary,
137 over the program. A participating employer shall not bear responsibility for the administration,
138 investment options or investment performance of the program. A participating employer shall
139 not be liable with regard to investment returns, program design and benefits paid to program
140 participants.

141 (h) All agencies of the commonwealth shall cooperate as requested by the state treasurer
142 in the performance of their duties under this section, including, unless otherwise prohibited, the
143 sharing of relevant data as the parties shall mutually agree.

144 Section 64I. (a)(1) Each employer shall establish a payroll deposit retirement savings
145 arrangement to allow each employee to participate in the program on a timeline set by the board.

146 (2) Employers shall automatically enroll each employee, who has not opted out of
147 participation, in the program and shall provide payroll deduction retirement savings
148 arrangements and deposit, on behalf of each such employee, these funds into the program.

149 (3) Employers shall retain the option at all times to set up any type of employer-
150 sponsored retirement plan, including, but not limited to, a defined benefit plan, a 401(k), a
151 Simplified Employee Pension (SEP) plan or a Savings Incentive Match Plan for Employees
152 (SIMPLE) plan, instead of having a payroll deposit retirement savings arrangement to allow
153 employee participation in the program.

154 (b)(1) Enrollees shall have the ability to: (i) select a contribution level into the fund; or
155 (ii) opt out of participation in the program. The contribution level may be expressed as a
156 percentage of wages or as a dollar amount up to the deductible amount for the enrollee's taxable
157 year under section 219(b)(1)(A) of the Code. Enrollees may change their contribution level at
158 any time and that election shall be honored as soon as administratively feasible. If an enrollee
159 fails to select a contribution level using the form prescribed, the enrollee shall contribute the
160 default contribution rate of 6 per cent, with an annual escalation of 1 per cent and up to 10 per
161 cent, of their wages to the program.

162 (2) Enrollees may select an investment option from the permitted investment options
163 available under the program. Enrollees may change their investment option at any time. If an
164 enrollee fails to select an investment option, the enrollee shall be placed in a qualified default
165 investment alternative specified by the program.

166 (3) An enrollee may terminate their participation in the program at any time in a manner
167 prescribed by the program.

168 Section 64J. (a) An employer who fails without reasonable cause to enroll an employee,
169 who has not elected out of participation, in the program within the time prescribed by the state
170 treasurer, in consultation with the department, shall be subject to a penalty equal to:

171 (i) \$250 for each employee for each calendar year or portion of a calendar year during
172 which the employee neither was enrolled in the program nor had elected out of participation in
173 the program, and the employee or any appropriate official of the commonwealth may bring a
174 civil action to require the employer to enroll the employee and shall recover such costs and
175 reasonable attorney's fees as may be allowed by the court; and

176 (ii) for each calendar year beginning after the date a penalty has been assessed with
177 respect to an employee, \$500 for any portion of that calendar year during which such employee
178 continues to be unenrolled without electing out of participation in the program, and the employee
179 or any appropriate official of the commonwealth may bring a civil action to require the employer
180 to enroll the employee and shall recover such costs and reasonable attorney's fees as may be
181 allowed by the court.

182 (b) No penalty shall be imposed under subsection (a) for any failure for which it is
183 established that the employer, subject to liability for the penalty, did not know that the failure
184 existed and exercised reasonable diligence to meet the requirements of this section or where:

185 (i) the employer subject to liability for the penalty exercised reasonable diligence to meet
186 those requirements; and

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

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

193 (d) If a participating employer fails to transmit a payroll deduction contribution to the
194 program on the earliest date the amount withheld from the enrollee's compensation may
195 reasonably be segregated from the participating employer's assets, but not later than the 15th day
196 of the month following the month in which the enrollee's contribution amounts are withheld
197 from their paycheck, the failure to remit such contributions on a timely basis shall be subject to

198 the same sanctions as employer misappropriation of employee wage withholdings, including
199 those pursuant to sections 148 and 150 of chapter 149 and to the penalties specified in subsection
200 (a).

201 (e) Except as provided in this subsection, all information received by the department
202 from returns filed by an employer or from any investigation conducted under this section shall be
203 confidential, except for official purposes within the department or pursuant to official procedures
204 for collection of penalties assessed under this section. Nothing contained in this section shall
205 prevent the commissioner from publishing or making available to the public reasonable statistics
206 concerning the operation of this section wherein the contents of returns are grouped into
207 aggregates in such a way that the specific information of any employer shall not be disclosed.
208 Nothing contained in this section shall prevent the commissioner from divulging information to
209 an authorized representative of the employer or to any person pursuant to a request or
210 authorization made by the employer or by an authorized representative of the employer.

211 (f) Civil penalties and fees collected under this section shall be deposited into the fund.

212 (g) The department may promulgate rules and regulations as necessary or proper for the
213 administration and enforcement of this section.

214 SECTION 3. (a) Upon implementation of the Massachusetts secure choice savings
215 program established pursuant to section 64H of chapter 29 of the General Laws, inserted by
216 section 2, the Massachusetts secure choice savings board established pursuant to section 64G of
217 said chapter 29, inserted by said section 2, shall provide written confirmation to the department
218 of revenue.

219 (b) Upon receipt of the notice pursuant to subsection (a), the department of revenue shall
220 immediately make publicly available a notice informing employers of the requirements of the
221 Massachusetts secure choice savings program. The notice shall inform employers that rather than
222 enrolling employees in the program, employers may sponsor an alternative plan, including, but
223 not limited to, a defined benefit plan, a 401(k) plan, a Simplified Employee Pension (SEP) plan
224 or a Savings Incentive Match Plan for Employees (SIMPLE) plan.

225 (c) Notwithstanding section 64J of chapter 29 of the General Laws, inserted by section 2,
226 no penalty shall be assessed against an employer for noncompliance with section 64I of said
227 chapter 29, inserted by said section 2, until 1 year after the department of revenue issues the
228 notice required pursuant to subsection (b).

229 SECTION 4. This act shall take effect as of July 1, 2025.