

SENATE No. 1878

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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:

Joan B. Lovely

DISTRICT/ADDRESS:

Second Essex

SENATE No. 1878

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1878) of Joan B. Lovely for legislation relative to the SMART plan. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1698 OF 2023-2024.]

The Commonwealth of Massachusetts

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

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 words:-

4 contracted employees

5 SECTION 2. Said section 64 of said chapter 29 of the General Laws, as so appearing, is
6 hereby further amended by inserting at the end thereof the following paragraphs:-

7 The state treasurer, on behalf of the deferred compensation program, may adopt annual
8 budgets and supplemental budgets as necessary. Said budgets may include salaries for treasury
9 employees tasked with working on and/or administering the deferred compensation program, and
10 said budgets may be funded from the administrative expense account of the deferred

11 compensation program. Any such treasury employee whose compensation is sourced from the
12 deferred compensation program shall be an “employee” as that term is defined in section 1 of
13 chapter 32 and shall be a member of the Massachusetts state employees’ retirement system.

14 The state treasurer, on behalf of the commonwealth, may establish an automatic
15 enrollment feature within the deferred compensation program. The automatic enrollment feature
16 does not require advance authorization by an employee, and is hereby deemed to be an exception
17 to the provisions of the Massachusetts Wage Act or any other state law requiring employee
18 authorization for a payroll deduction or any similar ordinance of a governmental body. The
19 details of the automatic enrollment feature shall be set forth in the deferred compensation plan
20 document and shall include:

21 (a) A provision that automatic enrollment shall apply only to new employees of the
22 commonwealth, meaning employees hired on or after June 1, 2022; but that for any
23 commonwealth agencies or departments that have Code section 403(b) eligible employees,
24 automatic enrollment shall only apply at the commonwealth agency’s or department’s discretion
25 and affirmative election;

26 (b) A provision that automatic enrollment shall apply only to new employees of a
27 “governmental body”, as defined in section 64B of chapter 29 of these general laws, if the
28 governmental body elects to implement the automatic enrollment feature for its employees;

29 (c) A provision that automatic enrollment may not require more than the IRS safe harbor
30 maximum deferral percentage;

31 (d) A provision that the amount of compensation deferred by an automatically-enrolled
32 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) A provision that an employee who is automatically enrolled shall have as long as ninety days to discontinue participation in the plan;

(f) A provision that 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 provision that the plan shall specify 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) A provision that the plan shall adhere to 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 appearing in the 2020 Edition, is hereby amended by inserting between the third and fourth paragraphs the following paragraph:-

The treasurer or, if there is no 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 does 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

54 deduction or any similar ordinance of a governmental body. Subject to the election of each
55 governmental body, any such auto enrollment feature permitted as a part of a governmental
56 body's deferred compensation program shall only apply to new employees of a governmental
57 body hired on or after June 1, 2024 and such deferred compensation program will be required to
58 include the specifications for auto enrollment detailed in subsections (b)-(h) of section 64 of
59 chapter 29 of the General Laws.