

SENATE No. 2987

The Commonwealth of Massachusetts

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

SENATE, March 12, 2026.

The committee on Financial Services to whom was referred the petition (accompanied by bill, Senate, No. 722) of Sal N. DiDomenico, Colleen M. Garry, Paul W. Mark and Michael D. Brady for legislation to encourage retirement planning, report the accompanying bill (Senate, No. 2987).

For the committee,
Paul R. Feeney

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An Act to encourage retirement planning.

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 10 of the General Law is hereby amended by inserting after Section
2 35I the following new section:

3 Section 35I 1/2.

4 (a) Definitions. Unless the context requires a different meaning or as expressly provided
5 in this Section, all terms shall have the same meaning as when used in a comparable context in
6 the Internal Revenue Code. As used in this Act:

7 "Board" means the Massachusetts Secure Choice Savings Board established under this
8 Act.

9 "Department" means the Department of Revenue.

10 "Client" or "client company", as defined in section 192 of chapter 149.

11 "Code", as defined in section 1 of chapter 62.

12 "Commissioner" means the Commissioner of Revenue.

13 "Employee" means any individual who is 18 years of age or older, who is employed by
14 an employer, and who has wages that are allocable to Massachusetts during a calendar year
15 under the provisions of Massachusetts General Laws, Chapter 62. For purposes of this section,
16 an employee who is a covered employee under a professional employer agreement shall be
17 treated as employed by the client company and not by the PEO.

18 "Employer" means a person or entity engaged in a business, industry, profession, trade,
19 or other enterprise in the Commonwealth of Massachusetts, whether for profit or not for profit,
20 that (i) has at no time during the previous calendar year employed fewer than 5 employees in the
21 State, (ii) has been in business at least 2 years, and (iii) has not offered a qualified retirement
22 plan, including, but not limited to, a plan qualified under Section 401(a), Section 401(k), Section
23 403(a), Section 403(b), Section 408(k), Section 408(p), or Section 457(b) of the Code, or a
24 qualified retirement plan sponsored by a PEO with which the client company has a professional
25 employer agreement as such terms are defined in section 192 of chapter 149, in the preceding 2
26 years.

27 "Enrollee" means any employee or former employee who is enrolled in the Program.

28 "Fund" means the Massachusetts Secure Choice Savings Program Fund.

29 "Internal Revenue Code" means Internal Revenue Code of 1986, or any successor law, in
30 effect for the calendar year.

31 "IRA" means a Roth IRA (individual retirement account) under Section 408A or a
32 traditional IRA under Section 408 of the Internal Revenue Code.

33 "Participating employer" means an employer that provides a payroll deposit retirement
34 savings arrangement as provided for by this Act for its employees who are enrolled in the
35 Program.

36 "Payroll deposit retirement savings arrangement" means an arrangement by which a
37 participating employer allows enrollees to remit payroll deduction contributions to the Program.

38 "Professional employer organization" or "PEO", as defined in section 192 of chapter 149.

39 "Program" means the Massachusetts Secure Choice Savings Program.

40 "Wages" means any compensation within the meaning of Section 219(f)(1) of the Internal
41 Revenue Code that is received by an enrollee from a participating employer during the calendar
42 year. For purposes of a professional employer agreement as such term is defined in section 192
43 of chapter 149, any wages paid to a covered employee by the PEO shall be treated as wages
44 received from the client company.

45 (b) Establishment of Massachusetts Secure Choice Savings Program. A retirement
46 savings program in the form of an automatic enrollment payroll deduction IRA, known as the
47 Massachusetts Secure Choice Savings Program, is hereby established and shall be administered
48 by the Board for the purpose of promoting greater retirement savings for private-sector
49 employees in a convenient, low-cost, and portable manner.

50 (c) Massachusetts Secure Choice Savings Program Fund.

51 (1) The Massachusetts Secure Choice Savings Program Fund is hereby established as a
52 trust outside of the State Treasurer's Office, with the Board as its trustee. The Fund shall include
53 the individual retirement accounts of enrollees, which shall be accounted for as individual

54 accounts. Moneys in the Fund shall consist of moneys received from enrollees and participating
55 employers pursuant to automatic payroll deductions and contributions to savings made under this
56 Act. The Fund shall be operated in a manner determined by the Board, provided that the Fund is
57 operated so that the accounts of enrollees established under the Program meet the requirements
58 for IRAs under the Internal Revenue Code.

59 (2) The amounts deposited in the Fund shall not constitute property of the
60 Commonwealth and the Fund shall not be construed to be a department, institution, or agency of
61 the Commonwealth. Amounts on deposit in the Fund shall not be commingled with
62 Commonwealth funds and the Commonwealth shall have no claim to or against, or interest in,
63 such funds.

64 (d) Massachusetts Secure Choice Administrative Fund. The Massachusetts Secure Choice
65 Administrative Fund ("Administrative Fund") is created as a nonappropriated, separate and apart
66 trust fund in the State Treasurer's Office. The Board shall use moneys in the Administrative
67 Fund to pay for administrative expenses it incurs in the performance of its duties under this Act.
68 The Administrative Fund may receive any grants or other moneys designated for administrative
69 purposes from the State, or any unit of federal or local government, or any other person, firm,
70 partnership, or corporation. Any interest earnings that are attributable to moneys in the
71 Administrative Fund must be deposited into the Administrative Fund.

72 (e) Composition of the Board. There is created the Massachusetts Secure Choice Savings
73 Board.

74 (1) The Board shall consist of the following 7 members:

75 (i) the State Treasurer, or his or her designee, who shall serve as chair;

- 76 (ii) the State Comptroller, or his or her designee;
- 77 (iii) the Secretary of the Commonwealth, or his or her designee;
- 78 (iv) two public representatives with expertise in retirement savings plan administration or
79 investment, or both, appointed by the Governor;
- 80 (v) one representative of participating employers, appointed by the Governor;
- 81 (vi) one representative of enrollees, appointed by the Secretary of the Commonwealth.

82 (2) Members of the Board shall serve without compensation but may be reimbursed for
83 necessary travel expenses incurred in connection with their Board duties from funds appropriated
84 for the purpose.

85 (3) The initial appointments shall be as follows: one public representative for 4 years; one
86 public representative for 2 years; the representative of participating employers for 3 years; and
87 the representative of enrollees for 1 year. Thereafter, all appointments shall be for terms of 4
88 years.

89 (4) A vacancy in the term of an appointed Board member shall be filled for the balance of
90 the unexpired term in the same manner as the original appointment.

91 (5) Each Board member, prior to assuming office, shall take an oath that he or she will
92 diligently and honestly administer the affairs of the Board and that he or she will not knowingly
93 violate or willingly permit to be violated any of the provisions of law applicable to the Program.

94 The oath shall be certified by the officer before whom it is taken and immediately filed in
95 the office of the Secretary of the Commonwealth.

96 (f) Fiduciary Duty. The Board, the individual members of the Board, the trustee
97 appointed under subsection (b) of Section 8, any other agents appointed or engaged by the
98 Board, and all persons serving as Program staff shall discharge their duties with respect to the
99 Program solely in the interest of the Program's enrollees and beneficiaries as follows:

100 (1) for the exclusive purposes of providing benefits to enrollees and beneficiaries and
101 defraying reasonable expenses of administering the Program; and

102 (2) by investing with the care, skill, prudence, and diligence under the prevailing
103 circumstances that a prudent person acting in a like capacity and familiar with those matters
104 would use in the conduct of an enterprise of a like character and with like aims.

105 (g) Duties of the Board. In addition to the other duties and responsibilities stated in this
106 Act, the Board shall:

107 (1) Cause the Program to be designed, established and operated in a manner that:

108 (i) accords with best practices for retirement savings vehicles;

109 (ii) maximizes participation, savings, and sound investment practices;

110 (iii) maximizes simplicity, including ease of administration for participating employers
111 and enrollees;

112 (iv) provides an efficient product to enrollees by pooling investment funds; and

113 (v) ensures the portability of benefits.

114 (2) Appoint a trustee to the Program Fund in compliance with Section 408 of the Internal
115 Revenue Code.

116 (3) Explore investment options, subject to Section 11 of this Act, that offer enrollees
117 returns on contributions and the conversion of individual retirement savings account balances to
118 secure retirement income without incurring debt or liabilities to the State.

119 (4) Make and enter into contracts necessary for the administration of the Program and
120 Fund, including, but not limited to, retaining and contracting with investment managers, private
121 financial institutions, other financial and service providers, consultants, actuaries, counsel,
122 auditors, third-party administrators, and other professionals as necessary.

123 (5) Conduct a review of the performance of any investment vendors no less frequently
124 than every 4 years, including, but not limited to, a review of returns, fees, and customer service.
125 A copy of reviews conducted under this subsection shall be posted to the Board's Internet
126 website.

127 (6) Determine the number and duties of staff members needed to administer the Program
128 and assemble such a staff, including, as needed, employing staff, appointing a Program
129 administrator, and entering into contracts with the State Treasurer to make employees of the
130 State Treasurer's Office available to administer the Program.

131 (7) Cause moneys in the Fund to be held and invested as pooled investments with a view
132 to achieving cost savings through efficiencies and economies of scale.

133 (8) Evaluate and establish the process by which an enrollee is able to contribute a portion
134 of his or her wages to the Program for automatic deposit of those contributions and the process
135 by which the participating employer provides a payroll deposit retirement savings arrangement to
136 forward those contributions and related information to the Program, including, but not limited to,
137 contracting with financial service companies and third-party administrators with the capability to

138 receive and process employee information and contributions for payroll deposit retirement
139 savings arrangements or similar arrangements.

140 (9) Design and establish the process for enrollment under Section 14 of this Act,
141 including the default contribution rate, account type, investment option, and automatic escalation
142 rate. The Board shall also design and establish the process by which an employee can:

143 (i) opt not to participate in the Program; (2) select a contribution rate, account type,
144 investment option, or escalation rate different than the default options set by the Board; or (3)
145 terminate participation in the Program.

146 (10) Evaluate and establish the process by which an individual may voluntarily enroll in
147 and make contributions to the Program.

148 (11) Accept any grants, appropriations, or other moneys from the Commonwealth, any
149 unit of federal, State, or local government, or any other person, firm, partnership, or corporation
150 solely for deposit into the Fund, whether for investment or administrative purposes.

151 (12) Evaluate the need for, and procure as needed, insurance against any and all loss in
152 connection with the property, assets, or activities of the Program, and indemnify as needed each
153 member of the Board from personal loss or liability resulting from a member's action or inaction
154 as a member of the Board.

155 (13) Make provisions for the payment of administrative costs and expenses for the
156 creation, management, and operation of the Program. Subject to appropriation, the
157 Commonwealth may pay administrative costs associated with the creation and management of
158 the Program until sufficient assets are available in the Fund for that purpose. Thereafter, all

159 administrative costs of the Fund, including repayment of any start-up funds provided by the
160 State, shall be paid only out of moneys on deposit therein. However, private funds or federal
161 funding received in order to implement the Program until the Fund is self-sustaining shall not be
162 repaid unless those funds were offered contingent upon the promise of such repayment. The
163 Board shall keep annual administrative expenses as low as possible and is authorized to charge
164 and collect reasonable administrative fees from enrollees.

165 (14) Allocate administrative fees to individual retirement accounts in the Program on a
166 pro rata basis.

167 (15) Set minimum and maximum contribution levels in accordance with limits
168 established for IRAs by the Internal Revenue Code.

169 (16) Facilitate education and outreach to employers and employees. Design and establish
170 an internet website for the Program with details for employers, employees, and enrollees.

171 (17) Facilitate compliance by the Program with all applicable requirements for the
172 Program under the Internal Revenue Code, including tax qualification requirements or any other
173 applicable law and accounting requirements.

174 (18) Carry out the duties and obligations of the Program in an effective, efficient, and
175 low-cost manner.

176 (19) Exercise any and all other powers reasonably necessary for the effectuation of the
177 purposes, objectives, and provisions of this Act pertaining to the Program.

178 (20) Deposit into the Massachusetts Secure Choice Administrative Fund all grants, gifts,
179 donations, fees, and earnings from investments from the Massachusetts Secure Choice Savings

180 Program Fund that are used to recover administrative costs. All expenses of the Board shall be
181 paid from the Massachusetts Secure Choice Administrative Fund.

182 (h) Risk Management. The Board shall prepare and adopt a written statement of
183 investment policy that includes a risk management and oversight program. This investment
184 policy shall prohibit the Board, Program, and Fund from borrowing for investment purposes. The
185 risk management and oversight program shall be designed to ensure that an effective risk
186 management system is in place to monitor the risk levels of the Program and Fund portfolio, to
187 ensure that the risks taken are prudent and properly managed, to provide an integrated process
188 for overall risk management, and to assess investment returns as well as risk to determine if the
189 risks taken are adequately compensated compared to applicable performance benchmarks and
190 standards. The Board shall consider the statement of investment policy and any changes in the
191 investment policy at a public hearing.

192 (i) Investment firms.

193 (1) The Board shall engage, after an open bid process, an investment manager or
194 managers to invest the Fund and any other assets of the Program. Moneys in the Fund may be
195 invested or reinvested by the State Treasurer's Office or may be invested in whole or in part
196 under contract with the State Board of Investment, private investment managers, or both, as
197 selected by the Board. In selecting the investment manager or managers, the Board shall take
198 into consideration and give weight to the investment manager's fees and charges in order to
199 reduce the Program's administrative expenses.

200 (2) The investment manager or managers shall comply with any and all applicable federal
201 and state laws, rules, and regulations, as well as any and all rules, policies, and guidelines

202 promulgated by the Board with respect to the Program and the investment of the Fund, including,
203 but not limited to, the investment policy.

204 (3) The investment manager or managers shall provide such reports as the Board deems
205 necessary for the Board to oversee each investment manager's performance and the performance
206 of the Fund.

207 (j) Investment options.

208 (1) The Board shall establish as an investment option a life-cycle fund with a target date
209 based upon the age of the enrollee. This shall be the default investment option for enrollees who
210 fail to elect an investment option unless and until the Board designates by rule a new investment
211 option as the default.

212 (2) The Board may also establish additional investment options, including, but not limited
213 to, any of the following:

214 (i) a conservative principal protection fund;

215 (ii) a growth fund;

216 (iii) a secure return fund whose primary objective is the preservation of the safety of
217 principal and the provision of a stable and low-risk rate of return; if the Board elects to establish
218 a secure return fund, the Board may procure any insurance, annuity, or other product to insure
219 the value of individuals' accounts and guarantee a rate of return; the cost of such funding
220 mechanism shall be paid out of the Fund; under no circumstances shall the Board, Program,
221 Fund, the State, or any participating employer assume any liability for investment or actuarial

222 risk; the Board shall determine whether to establish such investment options based upon an
223 analysis of their cost, risk profile, benefit level, feasibility, and ease of implementation;

224 (iv) an annuity fund.

225 (k) Intergovernmental Collaboration, Data Sharing, and Multistate Agreements.

226 (1) The Board may enter into an intergovernmental agreement or memorandum of
227 understanding with the State and any agency of the State to receive outreach, technical
228 assistance, enforcement and compliance services, collection or dissemination of information
229 pertinent to the Program (subject to such obligations of confidentiality as may be agreed or
230 required by law), or other services or assistance. The State and any agencies of the State that
231 enter into such agreements or memoranda of understanding shall collaborate to provide the
232 outreach, assistance, information, and compliance or other services or assistance to the Board.
233 The memoranda of understanding may cover the sharing of costs incurred in gathering and
234 disseminating information and the reimbursement of costs for any enforcement activities or
235 assistance.

236 (2) All agencies of the Commonwealth shall cooperate as requested by the Program in the
237 performance of its duties under this Act, including, unless otherwise prohibited, the sharing of
238 relevant data as the parties shall mutually agree.

239 (3) The Board shall assess the feasibility of multistate or regional agreements to
240 administer the Program through shared administrative and operational resources and may enter
241 into those agreements if deemed beneficial to the Program.

242 (l) Employer and employee information packets and disclosure forms.

243 (1) The Board shall design and disseminate an employer information packet and an
244 employee information packet, which shall include background information on the Program,
245 appropriate disclosures for employees, and information regarding the Internet website described
246 in Section 8 of this Act.

247 (2) The employee information packet shall include a disclosure form. The disclosure
248 form shall explain, but not be limited to, all of the following:

249 (i) the benefits and risks associated with making contributions to the Program;

250 (ii) the mechanics of how to make contributions to the Program;

251 (iii) how to opt out of the Program;

252 (iv) how to participate in the Program with a level of employee contributions other than
253 the default contribution rate.

254 (v) the process for withdrawal of retirement savings;

255 (vi) how to obtain additional information about the Program;

256 (vii) that employees seeking financial advice should contact financial advisors, that
257 participating employers are not in a position to provide financial advice, and that participating
258 employers are not liable for decisions employees make pursuant to this Act;

259 (viii) that the Program is not an employer-sponsored retirement plan; and

260 (ix) that the Program Fund is not guaranteed by the Commonwealth.

261 (3) The employee information packet shall also include a form for an employee to note
262 his or her decision to opt out of participation in the Program or elect to participate with a level of
263 employee contributions other than the default rate set by the Board.

264 (4) Participating employers shall supply the employee information packet to employees
265 after the employer has registered for the Program. Participating employers shall supply the
266 employee information packet to new employees at the time of hiring, and new employees may
267 opt out of participation in the Program or elect to participate with a level of employee
268 contributions other than the default contribution rate at that time.

269 (m) Program implementation and enrollment. The Program shall be implemented, and
270 enrollment of employees shall begin, within 24 months after the effective date of this Act. The
271 provisions of this Section shall be in force after the Board opens the Program for enrollment.

272 (1) Each employer shall establish a payroll deposit retirement savings arrangement to
273 allow each employee to participate in the Program on a timeline set by the Board.

274 (2) Employers shall automatically enroll in the Program each of their employees who has
275 not opted out of participation in the Program and shall provide payroll deduction retirement
276 savings arrangements and deposit, on behalf of such employees, these funds into the Program.

277 (3) Enrollees shall have the ability to select a contribution level into the Fund. This level
278 may be expressed as a percentage of wages or as a dollar amount up to the deductible amount for
279 the enrollee's taxable year under Section 219(b)(1)(A) of the Internal Revenue Code. Enrollees
280 may change their contribution level at any time, subject to rules promulgated by the Board. If an
281 enrollee fails to select a contribution level using the form prescribed by the Board, then he or she
282 shall contribute the default contribution rate of his or her wages to the Program.

283 (4) Enrollees may select an investment option from the permitted investment options
284 listed in Section 11 of this Act. Enrollees may change their investment option at any time,
285 subject to rules promulgated by the Board. In the event that an enrollee fails to select an
286 investment option, that enrollee shall be placed in the investment option selected by the Board as
287 the default.

288 (5) Employers shall retain the option at all times to set up any type of employer-
289 sponsored retirement plan, such as a defined benefit plan or a 401(k), Simplified Employee
290 Pension (SEP) plan, Savings Incentive Match Plan for Employees (SIMPLE) plan, or a plan
291 sponsored by a PEO with which the client company has a professional employer agreement as
292 such terms are defined in section 192 of chapter 149, instead of having a payroll deposit
293 retirement savings arrangement to allow employee participation in the Program.

294 (6) An enrollee may terminate his or her participation in the Program at any time in a
295 manner prescribed by the Board.

296 (7) In the case of a PEO relationship as such term is defined in section 192 of chapter
297 149:

298 (i) If a PEO offers a qualified retirement plan to a covered employee, the client company
299 is considered as offering a qualified retirement plan and shall not be considered an employer
300 required to automatically enroll each employee in the program as described in this section; and

301 (ii) If a client company is an employer required to automatically enroll each employee in
302 the program, the client company, not the PEO, shall be responsible for complying with all
303 applicable requirements under this section.

304 (2) Nothing in this section shall prevent an employer from entering into a professional
305 employer agreement with a PEO under which the PEO agrees to assist the client company with
306 the performance of some or all of the client company's responsibilities under this section.

307 (n) Payments. Employee contributions deducted by the participating employer through
308 payroll deduction shall be paid by the participating employer to the Fund using one or more
309 payroll deposit retirement savings arrangements established by the Board, either:

310 (i) on or before the last day of the month following the month in which the compensation
311 otherwise would have been payable to the employee in cash; or

312 (ii) before such later deadline prescribed by the Board for making such payments, but not
313 later than the due date for the deposit of tax required to be deducted and withheld relating to
314 collection of income tax at source on wages or for the deposit of tax required to be paid under the
315 unemployment insurance system for the payroll period to which such payments relate.

316 (o) Duty and liability of the Commonwealth.

317 (1) The State, the Board, each member of the Board or other State official, other State
318 boards, commissions, or agencies, any member, officer, or employee thereof, and the Program --

319 (i) have no responsibility for compliance by individuals with the conditions and other
320 provisions of the Internal Revenue Code that determine which individuals are eligible to make
321 tax-favored contributions to IRAs, in what amount, and in what time frame and manner,

322 (ii) have no duty, responsibility, or liability to any party for the payment of any benefits
323 under the Program, regardless of whether sufficient funds are available under the Program to pay
324 such benefits,

325 (iii) do not and shall not guarantee any interest rate or other rate of return on or
326 investment performance of any contribution or account balance, and

327 (iv) are not and shall not be liable or responsible for any loss, deficiency, failure to realize
328 any gain, or any other adverse consequences, including without limitation any adverse tax
329 consequences or loss of favorable tax treatment, public assistance or other benefits, incurred by
330 any person as a result of participating in the Program.

331 (2) The debts, contracts, and obligations of the Program or the Board are not the debts,
332 contracts, and obligations of the State, and neither the faith and credit nor the taxing power of the
333 State is pledged directly or indirectly to the payment of the debts, contracts, and obligations of
334 the Program or the Board.

335 (p) Duty and liability of participating employers.

336 (1) Participating employers shall not have any liability for an employee's decision to
337 participate in, or opt out of, the Program or for the investment decisions of the Board or of any
338 enrollee.

339 (2) A participating employer shall not be a fiduciary, or considered to be a fiduciary, over
340 the Program. A participating employer shall not bear responsibility for the administration,
341 investment options, or investment performance of the Program. A participating employer shall
342 not be liable with regard to investment returns, Program design, and benefits paid to Program
343 participants.

344 (q) Audit and reports.

345 (1) The Board shall annually submit:

346 (i) an audited financial report, prepared in accordance with generally accepted accounting
347 principles, on the operations of the Program during each calendar year by July 1 of the following
348 year to the Comptroller, Secretary of the Commonwealth, and the State Treasurer.

349 (ii) a report prepared by the Board, which shall include, but is not limited to, a summary
350 of the benefits provided by the Program, including the number of enrollees in the Program, the
351 percentage and amounts of investment options and rates of return, and such other information
352 that is relevant to make a full, fair, and effective disclosure of the operations of the Program and
353 the Fund. The annual audit shall be made by an independent certified public accountant and shall
354 include, but is not limited to, direct and indirect costs attributable to the use of outside
355 consultants, independent contractors, and any other persons who are not State employees for the
356 administration of the Program.

357 (2) In addition to any other statements or reports required by law, the Board shall provide
358 periodic reports at least annually to enrollees, reporting contributions and investment income
359 allocated to, withdrawals from, and balances in their Program accounts for the reporting period.
360 Such reports may include any other information regarding the Program as the Board may
361 determine.

362 (r) Penalties.

363 (1) An employer who fails without reasonable cause to enroll an employee in the
364 Program within the time prescribed under this Act shall be subject to a penalty equal to:

365 (i) \$250 for each employee for each calendar year or portion of a calendar year during
366 which the employee neither was enrolled in the Program nor had elected out of participation in
367 the Program; and any appropriate official of the State may bring a civil action to require the

368 employer to enroll the employee and shall recover such costs and reasonable attorney's fees as
369 may be allowed by the court; and

370 (ii) for each calendar year beginning after the date a penalty has been assessed with
371 respect to an employee, \$500 for any portion of that calendar year during which such employee
372 continues to be unenrolled without electing out of participation in the Program.

373 (iii) No penalty shall be imposed under subsection 19(a) on any failure for which it is
374 established that the employer subject to liability for the penalty did not know that the failure
375 existed and exercised reasonable diligence to meet the requirements of this Act.

376 (iv) No penalty shall be imposed under subsection 19(a) on any failure if:

377 (A) the employer subject to liability for the penalty exercised reasonable diligence to
378 meet those requirements; and

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

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

385 (vi) Provide that, if a participating employer fails to transmit a payroll deduction
386 contribution to the Program on the earliest date the amount withheld from the enrollee's
387 compensation can reasonably be segregated from the participating employer's assets, but not
388 later than the 15th day of the month following the month in which the enrollee's contribution

389 amounts are withheld from his or her paycheck, the failure to remit such contributions on a
390 timely basis shall be subject to the same sanctions as employer misappropriation of employee
391 wage withholdings and to the penalties specified in subsection

392 (r)(1) above.

393 (2) Except as provided in this subsection, all information received by the Department
394 from returns filed by an employer or from any investigation conducted under the provisions of
395 this Act shall be confidential, except for official purposes within the Department or pursuant to
396 official procedures for collection of penalties assessed under this Act. Nothing contained in this
397 subsection shall prevent the Commissioner from publishing or making available to the public
398 reasonable statistics concerning the operation of this Act wherein the contents of returns are
399 grouped into aggregates in such a way that the specific information of any employer shall not be
400 disclosed. Nothing contained in this subsection shall prevent the Commissioner from divulging
401 information to an authorized representative of the employer or to any person pursuant to a
402 request or authorization made by the employer or by an authorized representative of the
403 employer.

404 (3) Civil penalties collected under this Act and fees collected pursuant to subsection (d)
405 of this Section shall be deposited into the Tax Compliance and Administration Fund. The
406 Department may, subject to appropriation, use moneys in the fund to cover expenses it incurs in
407 the performance of its duties under this Act. Interest attributable to moneys in the Tax
408 Compliance and Administration Fund shall be credited to the Tax Compliance and
409 Administration Fund.

410 (4) The Department may charge the Board a reasonable fee for its costs in performing its
411 duties under this Section to the extent that such costs have not been recovered from penalties
412 imposed under this Section.

413 (5) This Section shall go into effect 9 months after the Board notifies the Commissioner
414 that the Program has been implemented. Upon receipt of such notification from the Board, the
415 Department shall immediately post on its Internet website a notice stating that this Section is in
416 effect. This notice shall include a statement that rather than enrolling employees in the Program
417 under this Act, employers may sponsor an alternative arrangement, including, but not limited to,
418 a defined benefit plan, 401(k) plan, a Simplified Employee Pension (SEP) plan, a Savings
419 Incentive Match Plan for Employees (SIMPLE) plan, or a plan sponsored by a PEO with which
420 the client company has a professional employer agreement as such terms are defined in section
421 192 of chapter 149. The Board shall provide a link to the vendor Internet website.

422 (s) Rules. The Department shall adopt rules and regulations, in accordance with the
423 Massachusetts Administrative Procedure Act (Mass. Gen. Laws Ch. 30A), that may be necessary
424 to implement this Act.

425 (t) Delayed implementation. If the Board does not obtain adequate funds to implement
426 the Program within the time frame set forth under Section 14 of this Act, the Board may delay
427 the implementation of the Program.