

AN ACT concerning employment.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Illinois Secure Choice Savings Program Act is amended by changing Sections 15, 30, 55, and 60 as follows:

(820 ILCS 80/15)

Sec. 15. Illinois Secure Choice Savings Program Fund.

(a) The Illinois Secure Choice Savings Program Fund is hereby established as a trust outside of the State treasury, with the Board created in Section 20 as its trustee. The Fund shall include the individual retirement accounts of enrollees, which shall be accounted for as individual accounts. Moneys in the Fund shall consist of moneys received from enrollees and participating employers pursuant to automatic payroll deductions and contributions to savings made under this Act. The Fund shall be operated in a manner determined by the Board, provided that the Fund is operated so that the accounts of enrollees established under the Program meet the requirements for IRAs under the Internal Revenue Code.

(b) The amounts deposited in the Fund shall not constitute property of the State and the Fund shall not be construed to be a department, institution, or agency of the State. Amounts on deposit in the Fund shall not be commingled with State funds

and the State shall have no claim to or against, or interest in, such funds.

(c) The Illinois Secure Choice Savings Program Fund is an instrumentality of the State, and as such, is exempt from Sections 2a, 5, 6 and 7 of the Illinois Securities Law of 1953.

(Source: P.A. 98-1150, eff. 6-1-15.)

(820 ILCS 80/30)

Sec. 30. Duties of the Board. In addition to the other duties and responsibilities stated in this Act, the Board shall:

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

(1) accords with best practices for retirement savings vehicles;

(2) maximizes participation, savings, and sound investment practices;

(3) maximizes simplicity, including ease of administration for participating employers and enrollees;

(4) provides an efficient product to enrollees by pooling investment funds;

(5) ensures the portability of benefits; and

(6) provides for the deaccumulation of enrollee assets in a manner that maximizes financial security in retirement.

(b) Appoint a trustee to the IRA Fund in compliance with

Section 408 of the Internal Revenue Code.

(c) Explore and establish investment options, subject to Section 45 of this Act, that offer employees returns on contributions and the conversion of individual retirement savings account balances to secure retirement income without incurring debt or liabilities to the State.

(d) Establish the process by which interest, investment earnings, and investment losses are allocated to individual program accounts on a pro rata basis and are computed at the interest rate on the balance of an individual's account.

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

(e-5) Conduct a review of the performance of any investment vendors every 4 years, including, but not limited to, a review of returns, fees, and customer service. A copy of reviews conducted under this subsection (e-5) shall be posted to the Board's Internet website.

(f) Determine the number and duties of staff members needed to administer the Program and assemble such a staff, including, as needed, employing staff, appointing a Program administrator, and entering into contracts with the State

Treasurer to make employees of the State Treasurer's Office available to administer the Program.

(g) Cause moneys in the Fund to be held and invested as pooled investments described in Section 45 of this Act, with a view to achieving cost savings through efficiencies and economies of scale.

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

(i) Design and establish the process for enrollment under Section 60 of this Act, including the process by which an employee can opt not to participate in the Program, select a contribution level, select an investment option, and terminate participation in the Program.

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

(k) Accept any grants, appropriations, or other moneys from

the State, any unit of federal, State, or local government, or any other person, firm, partnership, or corporation solely for deposit into the Fund, whether for investment or administrative purposes.

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

(m) Make provisions for the payment of administrative costs and expenses for the creation, management, and operation of the Program, including the costs associated with subsection (b) of Section 20 of this Act, subsections (e), (f), (h), and (l) of this Section, subsection (b) of Section 45 of this Act, subsection (a) of Section 80 of this Act, and subsection (n) of Section 85 of this Act. Subject to appropriation, the State may pay administrative costs associated with the creation and management of the Program until sufficient assets are available in the Fund for that purpose. Thereafter, all administrative costs of the Fund, including repayment of any start-up funds provided by the State, shall be paid only out of moneys on deposit therein. However, private funds or federal funding received under subsection (k) of Section 30 of this Act in order to implement the Program until the Fund is self-sustaining shall not be repaid unless those funds were

offered contingent upon the promise of such repayment. The Board shall keep total annual expenses as low as possible, but in no event shall they exceed 0.75% of the total trust balance.

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

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

(o-5) Select a default contribution rate for Program participants within the range of 3% to 6% of an enrollee's wages.

(p) Facilitate education and outreach to employers and employees.

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

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

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

(t) Deposit into the Illinois Secure Choice Administrative Fund all grants, gifts, donations, fees, and earnings from investments from the Illinois Secure Choice Savings Program Fund that are used to recover administrative costs. All

expenses of the Board shall be paid from the Illinois Secure Choice Administrative Fund.

(Source: P.A. 98-1150, eff. 6-1-15; 99-571, eff. 7-15-16.)

(820 ILCS 80/55)

Sec. 55. Employer and employee information packets and disclosure forms.

(a) Prior to the opening of the Program for enrollment, the Board shall design and disseminate to all employers an employer information packet and an employee information packet, which shall include background information on the Program, appropriate disclosures for employees, and information regarding the vendor Internet website described in subsection (i) of Section 60 of this Act.

(b) The Board shall provide for the contents of both the employee information packet and the employer information packet.

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

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

(2) the mechanics of how to make contributions to the Program;

(3) how to opt out of the Program;

(4) how to participate in the Program with a level of

employee contributions other than the default contribution rate 3%;

(5) the process for withdrawal of retirement savings;

(6) how to obtain additional information about the Program;

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

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

(9) that the Program Fund is not guaranteed by the State.

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

(e) Participating employers shall supply the employee information packet to employees upon launch of the Program. Participating employers shall supply the employee information packet to new employees at the time of hiring, and new employees may opt out of participation in the Program or elect to participate with a level of employee contributions other than the default contribution rate 3% at that time.

(Source: P.A. 98-1150, eff. 6-1-15.)

(820 ILCS 80/60)

Sec. 60. Program implementation and enrollment. Except as otherwise provided in Section 93 of this Act, the Program shall be implemented, and enrollment of employees shall begin in 2018, ~~within 24 months after the effective date of this Act.~~ The Board shall establish an implementation timeline under which employers shall enroll their employees into the Program. The timeline shall include the date by which an employer must begin enrollment of its employees into the Program and the date by which enrollment must be complete. The Board shall adopt the implementation timeline at a public meeting of the Board and shall publicize the implementation timeline. The Board shall provide advance notice to employers of their enrollment date and the amount of time to complete enrollment. The Board's implementation timeline shall ensure that all employees are required to be enrolled into the Program by December 31, 2020. The provisions of this Section shall be in force after the Board opens the Program for enrollment.

(a) Each employer shall establish a payroll deposit retirement savings arrangement to allow each employee to participate in the Program within the timeline set by ~~at most nine months after~~ the Board after ~~opens~~ the Program opens for enrollment.

(b) Employers shall automatically enroll in the Program

each of their employees who has not opted out of participation in the Program using the form described in subsection (c) of Section 55 of this Act and shall provide payroll deduction retirement savings arrangements for such employees and deposit, on behalf of such employees, these funds into the Program. Small employers may, but are not required to, provide payroll deduction retirement savings arrangements for each employee who elects to participate in the Program. Small employers' use of automatic enrollment for employees is subject to final rules from the United States Department of Labor. Utilization of automatic enrollment by small employers may be allowed only if it does not create employer liability under the federal Employee Retirement Income Security Act.

(c) Enrollees shall have the ability to select a contribution level into the Fund. This level may be expressed as a percentage of wages or as a dollar amount up to the deductible amount for the enrollee's taxable year under Section 219(b)(1)(A) of the Internal Revenue Code. Enrollees may change their contribution level at any time, subject to rules promulgated by the Board. If an enrollee fails to select a contribution level using the form described in subsection (c) of Section 55 of this Act, then he or she shall contribute the default contribution rate ~~3%~~ of his or her wages to the Program, provided that such contributions shall not cause the enrollee's total contributions to IRAs for the year to exceed the deductible amount for the enrollee's taxable year under

Section 219(b) (1) (A) of the Internal Revenue Code.

(d) Enrollees may select an investment option from the permitted investment options listed in Section 45 of this Act. Enrollees may change their investment option at any time, subject to rules promulgated by the Board. In the event that an enrollee fails to select an investment option, that enrollee shall be placed in the investment option selected by the Board as the default under subsection (c) of Section 45 of this Act. If the Board has not selected a default investment option under subsection (c) of Section 45 of this Act, then an enrollee who fails to select an investment option shall be placed in the life-cycle fund investment option.

(e) Following initial implementation of the Program pursuant to this Section, at least once every year, participating employers shall designate an open enrollment period during which employees who previously opted out of the Program may enroll in the Program.

(f) An employee who opts out of the Program who subsequently wants to participate through the participating employer's payroll deposit retirement savings arrangement may only enroll during the participating employer's designated open enrollment period or if permitted by the participating employer at an earlier time.

(g) Employers shall retain the option at all times to set up any type of employer-sponsored retirement plan, such as a defined benefit plan or a 401(k), Simplified Employee Pension

(SEP) plan, or Savings Incentive Match Plan for Employees (SIMPLE) plan, or to offer an automatic enrollment payroll deduction IRA, instead of having a payroll deposit retirement savings arrangement to allow employee participation in the Program.

(h) An employee may terminate his or her participation in the Program at any time in a manner prescribed by the Board.

(i) The Board shall establish and maintain an Internet website designed to assist employers in identifying private sector providers of retirement arrangements that can be set up by the employer rather than allowing employee participation in the Program under this Act; however, the Board shall only establish and maintain an Internet website under this subsection if there is sufficient interest in such an Internet website by private sector providers and if the private sector providers furnish the funding necessary to establish and maintain the Internet website. The Board must provide public notice of the availability of and the process for inclusion on the Internet website before it becomes publicly available. This Internet website must be available to the public before the Board opens the Program for enrollment, and the Internet website address must be included on any Internet website posting or other materials regarding the Program offered to the public by the Board.

(Source: P.A. 98-1150, eff. 6-1-15; 99-571, eff. 7-15-16.)

Section 99. Effective date. This Act takes effect upon

Public Act 100-0006

HB2360 Enrolled

LRB100 09674 JLS 19843 b

becoming law.