

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 5, 30, 45, 65, and 80 as follows:

(820 ILCS 80/5)

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

"Board" means the Illinois Secure Choice Savings Board established under this Act.

"Department" means the Department of Revenue.

"Director" means the Director of Revenue.

"Employee" means any individual who is 18 years of age or older, who is employed by an employer, and who has wages that are allocable to Illinois during a calendar year under the provisions of Section 304(a)(2)(B) of the Illinois Income Tax Act.

"Employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in Illinois, whether for profit or not for profit, that (i) has at no time

during the previous calendar year employed fewer than 25 employees in the State, (ii) has been in business at least 2 years, and (iii) has not offered a qualified retirement plan, including, but not limited to, a plan qualified under Section 401(a), Section 401(k), Section 403(a), Section 403(b), Section 408(k), Section 408(p), or Section 457(b) of the Internal Revenue Code of 1986 in the preceding 2 years.

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

"Fund" means the Illinois Secure Choice Savings Program Fund.

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

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

"Participating employer" means an employer or small employer that facilitates ~~provides~~ a payroll deposit retirement savings arrangement as provided for by this Act for its employees ~~who are enrollees in the Program~~.

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

"Program" means the Illinois Secure Choice Savings Program.

"Small employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in Illinois, whether for profit or not for profit, that (i) employed less than 25 employees at any one time in the State throughout the previous calendar year, or (ii) has been in business less than 2 years, or both items (i) and (ii), but that notifies the Board that it is interested in being a participating employer.

"Wages" means any compensation within the meaning of Section 219(f)(1) of the Internal Revenue Code that is received by an enrollee from a participating employer during the calendar year.

(Source: P.A. 98-1150, eff. 6-1-15; 99-464, eff. 8-26-15.)

(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.

The Board may enter into agreements with other governmental entities, including other states or their agencies and instrumentalities, to enable residents of other states to participate in the Program.

(Source: P.A. 99-571, eff. 7-15-16; 100-6, eff. 6-30-17.)

(820 ILCS 80/45)

Sec. 45. Investment options.

(a) The Board shall establish as an investment option a life-cycle fund with a target date based upon the age of the enrollee. This shall be the default investment option for enrollees who fail to elect an investment option unless and until the Board designates by rule a new investment option as the default as described in subsection (c) of this Section.

(b) The Board may also establish any or all of the following additional investment options:

(1) a conservative ~~principal protection~~ fund;

(2) a growth fund;

(3) a secure return fund whose primary objective is the preservation of the safety of principal and the provision of a stable and low-risk rate of return; if the Board elects to establish a secure return fund, the Board may procure any insurance, annuity, or other product to insure the value of individuals' accounts and guarantee a rate of return; the cost of such funding mechanism shall be paid out of the Fund; under no circumstances shall the Board, Program, Fund, the State, or any participating employer assume any liability for investment or actuarial risk; ~~the Board shall determine whether to establish such investment options based upon an analysis of their cost, risk profile, benefit level, feasibility, and ease of implementation;~~

(4) an annuity fund.

The Board shall determine whether to establish any of the additional investment options based upon an analysis of its cost, risk profile, benefit level, feasibility, and ease of implementation.

(c) If the Board elects to establish a secure return fund, the Board shall then determine whether such option shall replace the ~~target date or~~ life-cycle fund as the default investment option for enrollees who do not elect an investment option. In making such determination, the Board shall consider the cost, risk profile, benefit level, and ease of enrollment in the secure return fund. The Board may at any time thereafter

revisit this question and, based upon an analysis of these criteria, establish either the secure return fund or the life-cycle fund as the default for enrollees who do not elect an investment option.

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

(820 ILCS 80/65)

Sec. 65. Payments. Employee contributions deducted by the participating employer through payroll deduction shall be paid by the participating employer to the Fund using one or more payroll deposit retirement savings arrangements established by the Board under subsection (h) of Section 30 of this Act, either:

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

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

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

(820 ILCS 80/80)

Sec. 80. Audit and reports.

(a) The Board shall annually submit an audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the Program during each fiscal ~~calendar~~ year by January ~~July~~ 1 of the following year to the Governor, the Comptroller, the State Treasurer, and the General Assembly and shall be provided electronically to any member of the General Assembly upon request. The annual audit shall be made by an independent certified public accountant and shall include, but is not limited to, direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not State employees for the administration of the Program.

(b) In addition to any other statements or reports required by law, the Board shall provide periodic reports at least annually to participating employers, reporting the names of each enrollee employed by the participating employer and the amounts of contributions made by ~~the participating employer on behalf of~~ each employee during the reporting period, as well as to enrollees, reporting contributions and investment income allocated to, withdrawals from, and balances in their Program accounts for the reporting period. Such reports may include any other information regarding the Program as the Board may determine.

(c) The State Treasurer shall annually prepare a report in consultation with the Board that includes a summary of the

benefits provided by the Program each fiscal year, including the number of enrollees in the Program, the percentage and amounts of investment options and rates of return, and such other information that is relevant to make a full, fair, and effective disclosure of the operations of the Program and the Fund. The report shall be made available on the Program website by January of the following year.

(Source: P.A. 98-1150, eff. 6-1-15; 99-464, eff. 8-26-15.)

Section 99. Effective date. This Act takes effect upon becoming law.