House File 2347 - Introduced

HOUSE FILE 2347
BY PETTENGILL

A BILL FOR

An Act relating to the tax-sheltered investment program administered by the department of administrative services.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5903YH (4) 84
mm/sc

Section 1. Section 8A.438, subsection 2, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

2. The director shall select a third-party administrator for the program that is independent from the director and that does not offer its own investment options to participants through the tax-sheltered investment program. The director shall provide centralized oversight of the program.

Sec. 2. Section 8A.438, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Each public school district that is a participating employer in the program may select additional investment contracts authorized under section 403(b) of the Internal Revenue Code to supplement any investment contracts chosen by the director. The additional investment contracts selected by each public school district shall be administered by the independent third-party administrator selected pursuant to subsection 2. The selection of an available investment contract by any public school employee may not be unreasonably denied. Educational material and information provided by the director and the independent third-party administrator shall not favor an investment contract selected by the director over an investment contract selected by a public school district and shall not direct participants to an investment contract selected by the director. Each public school district may independently negotiate the terms and conditions, including fees charged, of any investment contract that it selects. Any administrative requirement and fee imposed by the department on an investment contract selected by a public school district shall also be imposed on an investment contract selected by the director.

NEW SUBSECTION. 4. *a.* All investment contracts must disclose and furnish to each participant the following information:

(1) All services provided, including how the services are

provided and whether they are provided by a licensed advisor or licensed agent.

(2) All fees that may be charged to a participant.

(3) A description of the amount and recipient of all payments made or promised to third parties, including but not limited to commissions, payments related to the purchase or deposit of a product, payments related to marketing or promotion of a product, and any other payment a third party is eligible to receive.

(4) All other information required by the United States department of labor in 29 C.F.R. § 2550.404a-5(d), in the same model comparative chart format provided in the appendix to 29 C.F.R. § 2550.404a-5.

b. The information in paragraph *"a"* shall be provided in a comparative chart using a format prescribed by the director and federal regulations, and furnished to the participant on or before the date on which a participant can first direct the participant's investments, and at least annually thereafter.

NEW SUBSECTION. 5. Investment contracts authorized by the director prior to February 1, 2012, shall have twenty-four months to opt out of their existing agreements with the director without penalty. Investment contracts which opt out shall not modify or add fees or reduce services for participants that are currently enrolled with that investment contract in the tax-sheltered investment program during such twenty-four-month period. Investment contracts which opt out shall not enter into another investment contract with the director for thirty-six months following the date their contract with the director is terminated. However, investment contracts that opt out of existing agreements with the director pursuant to this subsection may be selected by public school districts pursuant to this section during and after the thirty-six-month period.

EXPLANATION

This bill amends the tax-sheltered investment program in

Code section 8A.438. Under current law, the tax-sheltered investment program is administered by the department of administrative services through a special, separate tax-sheltered investment revolving trust fund in the state treasury. The bill terminates the tax-sheltered investment revolving trust fund and places the program under the administration of an independent third-party administrator. The director of the department of administrative services is required to select a third-party administrator that is independent from the director and that does not offer its own investment options to participants through the tax-sheltered investment program.

The bill also amends the tax-sheltered investment program to allow public school districts that are participating employers to select additional investment contracts authorized under section 403(b) of the Internal Revenue Code. In providing educational and other informational material to participants, neither the third-party administrator or the director of the department of administrative services is allowed to favor an investment contract selected by the director over an investment contract selected by a public school district, or direct participants to an investment contract selected by the director.

All investment contracts are required to disclose and furnish various information relating to services provided, fees, payments made to third parties, and other information required by the United States department of labor in 29 C.F.R. § 2550.404a-5(d). The information must be provided to participants in the form prescribed by the director of administrative services on or before the date a participant can first direct their investments, and at least annually thereafter.

Investment contracts authorized by the director prior to February 1, 2012, will have 24 months to opt out of their existing agreements with the director of the department of administrative services. Those that opt out are not allowed to modify or add fees or reduce services for participants currently enrolled and are not allowed to enter into another investment contract with the department of administrative services for 36 months following the date their contract is terminated. Investment contracts that opt out of existing agreements may still be selected by public school districts as provided in the bill during and after the 36-month period.