

House File 2373 - Introduced

HOUSE FILE 2373

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A BILL FOR

1 An Act establishing a retirement savings plan trust, providing
2 penalties, and including implementation provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **12L.1 Purpose and definitions.**

2 1. The general assembly finds that the general welfare and
3 well-being of the state are directly related to the ability of
4 the residents of the state to save for their retirement years,
5 and that a vital and valid public purpose is served by the
6 creation and implementation of programs which encourage and make
7 possible the attainment of financial security by the greatest
8 number of residents of the state. In order to make available
9 to the residents of the state an opportunity to fund future
10 retirement savings needs, it is necessary that a public trust be
11 established in which moneys may be invested for retirement.

12 2. As used in this chapter, unless the context otherwise
13 requires:

14 a. "*Administrative fund*" means the administrative fund
15 established under section 12L.10.

16 b. "*Employee*" means an individual who is eighteen years of
17 age or older, who is employed by an employer for at least one
18 hundred twenty days, and who is employed for compensation in this
19 state.

20 c. "*Employer*" means a person or entity engaged in a business,
21 industry, profession, trade, or other enterprise in Iowa for at
22 least two years that employed five or more employees at any time
23 during the previous calendar year.

24 d. "*Internal Revenue Code*" means the same as defined in
25 section 422.3.

26 e. "*Iowa retirement savings plan trust*" or "*trust*" means the
27 trust created under section 12L.2.

28 f. "*Participant*" means an individual that has entered into a
29 participation agreement under this chapter to contribute to an
30 Iowa retirement savings plan.

31 g. "*Participation agreement*" means an agreement between a
32 participant and the trust entered into under this chapter.

33 h. "*Program fund*" means the program fund established under
34 section 12L.10.

35 Sec. 2. NEW SECTION. **12L.2 Creation of Iowa retirement**

1 **savings plan trust.**

2 An Iowa retirement savings plan trust for persons employed for
3 compensation in this state, as allowed by the Internal Revenue
4 Code, is created for the purpose of helping Iowans save for
5 retirement. The treasurer of state is the trustee of the trust,
6 and has all powers necessary to carry out and effectuate the
7 purposes, objectives, and provisions of this chapter pertaining
8 to the trust, including the power to do all of the following:

9 1. Make and enter into contracts necessary for the
10 administration of the trust.

11 2. Enter into agreements with any financial institution, the
12 state, or any federal or other state agency, or other entity as
13 required to implement this chapter.

14 3. Carry out the duties and obligations of the trust pursuant
15 to this chapter.

16 4. Accept any grants, gifts, legislative appropriations, and
17 other moneys from the state, any unit of federal, state, or
18 local government, or any other person, firm, partnership, or
19 corporation which the treasurer of state shall deposit into the
20 administrative fund or the program fund.

21 5. Carry out studies and projections so the treasurer of
22 state may advise participants regarding present and estimated
23 future retirement needs and levels of financial participation in
24 the trust required in order to enable participants to achieve
25 their retirement funding objectives.

26 6. Participate in any federal, state, or local governmental
27 program for the benefit of the trust.

28 7. Procure insurance against any loss in connection with the
29 property, assets, or activities of the trust.

30 8. Enter into agreements with participants and employers.

31 9. Make distributions and refunds to participants pursuant to
32 participation agreements as prescribed by the Internal Revenue
33 Code.

34 10. Invest moneys from the program fund in any investments
35 which are determined by the treasurer of state to be appropriate.

1 11. Engage investment advisors, if necessary, to assist in
2 the investment of trust assets.

3 12. Contract for goods and services and engage personnel
4 as necessary, including consultants, actuaries, managers, legal
5 counsel, and auditors, for the purpose of rendering professional,
6 managerial, and technical assistance and advice to the treasurer
7 of state regarding trust administration and operation.

8 13. Establish, impose, and collect administrative fees and
9 charges in connection with transactions of the trust, and
10 provide for reasonable service charges, including penalties for
11 cancellations and late payments with respect to participation
12 agreements.

13 14. Administer the funds of the trust.

14 15. Design and establish the process for enrollment,
15 including the process by which an employee can opt out of the
16 trust, select a contribution level, and select an investment
17 option.

18 16. Set minimum, maximum, and default contribution rates in
19 accordance with limits established by the Internal Revenue Code.

20 17. Facilitate education and outreach to employers and
21 employees.

22 18. Determine any nominal and reasonable assistance that
23 businesses may receive from moneys in the fund to offset the
24 initial costs of enrolling employees in the trust and complying
25 with implementation of the trust.

26 19. Adopt rules pursuant to chapter 17A for the
27 administration of the trust.

28 **Sec. 3. NEW SECTION. 12L.3 Enrollment and contributions.**

29 1. An employer shall establish a payroll deposit retirement
30 savings arrangement to allow employees to participate in the
31 Iowa retirement savings plan trust, automatically enroll in the
32 trust each employee who has not opted out of participation in
33 the trust, and deposit on behalf of a participating employee
34 the money deducted into the trust. An employer may at any
35 time establish an employer-sponsored retirement plan instead of

1 participating in the trust.

2 2. An employer shall automatically enroll a participant with
3 a default contribution rate set by the treasurer of state so
4 long as such contributions will not cause the participant's total
5 contributions to individual retirement accounts for the year to
6 exceed the deductible amount for the participant's taxable year
7 under section 219(b)(1)(A) of the Internal Revenue Code. A
8 participant may at any time opt out of the trust or select an
9 alternate level of contribution or an alternate investment option
10 from section 12L.4.

11 3. Following implementation of the trust, at least once each
12 year, a participating employer shall designate an open enrollment
13 period during which an employee who previously opted out of the
14 trust may enroll in the trust.

15 Sec. 4. NEW SECTION. **12L.4 Investment options.**

16 1. The treasurer of state may establish a low-risk investment
17 portfolio and a target date fund as investment options.

18 2. The target date fund is the default investment option for
19 a participant who fails to elect an investment option unless the
20 treasurer of state designates by rule a new investment option as
21 the default. In making the determination, the treasurer of state
22 shall consider the cost, risk profile, benefit level, and ease of
23 enrollment in the alternate investment option.

24 Sec. 5. NEW SECTION. **12L.5 Employer and employee**
25 **information packets.**

26 1. The treasurer of state shall design and disseminate
27 to employers an employer information packet and an employee
28 information packet, which must include background information
29 on the Iowa retirement savings plan trust and appropriate
30 disclosures for employees. The employee information packet must
31 explain all of the following:

32 a. The benefits and risks associated with making
33 contributions to the trust.

34 b. The mechanics of how to make contributions to the trust.

35 c. How to opt out of the trust.

1 d. The process to withdraw retirement savings.

2 e. How to obtain additional information about the trust.

3 f. That an employee seeking financial advice should contact
4 a financial advisor, that a participating employer is not in a
5 position to provide financial advice, and that a participating
6 employer is not liable for decisions of an employee regarding
7 participation in the trust.

8 g. That the trust is not an employer-sponsored retirement
9 trust.

10 h. That investments are not guaranteed by the state.

11 i. Financial education information concerning the importance
12 of saving and planning for retirement.

13 j. Any other information deemed necessary by the treasurer of
14 state.

15 2. The employee information packet must include a form for
16 an employee to opt out of participation in the trust or elect
17 to participate with a contribution rate other than the default
18 contribution rate.

19 3. A participating employer shall supply the employee
20 information packet to an employee who is eligible for
21 participation in the trust.

22 Sec. 6. NEW SECTION. **12L.6 Fiduciary duty.**

23 1. The treasurer of state, an agent of the treasurer of
24 state, and persons serving as staff for the Iowa retirement
25 savings plan trust shall discharge their duties with respect to
26 the trust solely in the interest of the trust's participants and
27 beneficiaries for the exclusive purposes of providing benefits to
28 participants and beneficiaries and defraying reasonable expenses
29 of administering the trust and by investing with the care, skill,
30 prudence, and diligence under the prevailing circumstances that
31 a prudent person acting in a like capacity and familiar with
32 relevant matters would use in the conduct of an enterprise of a
33 like character and with like aims.

34 2. A participating employer is not a fiduciary of the trust
35 and is not liable with regard to investment returns, benefits

1 paid to a participant, an employee's decision to participate in
2 the trust, or the investment decisions of the treasurer of state
3 or a participant.

4 Sec. 7. NEW SECTION. **12L.7 Participant reports.**

5 1. The treasurer of state shall provide reports on the status
6 of trust accounts to participants at least annually.

7 2. The treasurer of state shall provide annual reports to
8 participating employers, including the name of each participating
9 employee of the employer and the contribution amounts made by the
10 employer.

11 Sec. 8. NEW SECTION. **12L.8 Confidentiality of account
12 information.**

13 Except to the extent necessary to administer the Iowa
14 retirement savings plan trust, a participant's account
15 information for accounts in the trust, including but not limited
16 to names, addresses, telephone numbers, personal identification
17 information, amounts contributed, and earnings on amounts
18 contributed, is confidential. The treasurer of state shall
19 maintain the information as confidential unless the person who
20 provides the information or is the subject of the information
21 expressly agrees in writing that the information may be
22 disclosed.

23 Sec. 9. NEW SECTION. **12L.9 Limitation of liability.**

24 The Iowa retirement savings plan trust, the treasurer of
25 state, and the state of Iowa shall not guarantee any rate of
26 return or any interest rate on any contribution to the trust.
27 The trust, treasurer of state, and the state of Iowa are not
28 liable for any loss incurred by any person as a result of
29 participating in the trust.

30 Sec. 10. NEW SECTION. **12L.10 Program and administrative
31 funds — investment and payments.**

32 1. The treasurer of state shall segregate moneys received
33 by the Iowa retirement savings plan trust into two funds: the
34 program fund and the administrative fund.

35 2. All moneys paid by participants in connection with

1 participation agreements shall be deposited as received into
2 separate accounts within the program fund.

3 3. Contributions to the trust made by participants shall only
4 be made in the form of cash.

5 Sec. 11. NEW SECTION. **12L.11 Cancellation of agreements.**

6 A participant may cancel a participation agreement at will.
7 Upon cancellation of a participation agreement, a participant
8 shall be entitled to the return of the participant's account
9 balance subject to penalties prescribed by the Internal Revenue
10 Code.

11 Sec. 12. NEW SECTION. **12L.12 Annual audited financial**
12 **report.**

13 1. The treasurer of state shall submit an annual audited
14 financial report, prepared in accordance with generally accepted
15 accounting principles, on the operations of the Iowa retirement
16 savings plan trust by January 1 to the governor and the general
17 assembly.

18 2. The annual audit shall be made either by the auditor of
19 state or by an independent certified public accountant designated
20 by the auditor of state and must include direct and indirect
21 costs attributable to the use of outside consultants, independent
22 contractors, and any other persons who are not state employees.

23 3. The annual audit must be supplemented by all of the
24 following information prepared by the treasurer of state:

25 a. Any related studies or evaluations prepared in the
26 preceding year.

27 b. A summary of the benefits provided by the trust, including
28 the number of participants in the trust.

29 c. Any other information which is relevant in order to make
30 a full, fair, and effective disclosure of the operations of the
31 trust.

32 Sec. 13. NEW SECTION. **12L.13 Tax considerations.**

33 For federal tax purposes, the Iowa retirement savings plan
34 trust shall conform to the requirements established by the
35 Internal Revenue Code to be able to operate as a retirement plan.

1 The plan may conform to the requirements under section 401(a),
2 section 408, or another section of the Internal Revenue Code
3 which allows Iowans the best retirement option under the trust
4 as determined by the treasurer of state.

5 Sec. 14. NEW SECTION. **12L.14 Property rights to assets in**
6 **trust.**

7 1. The assets of the Iowa retirement savings plan trust shall
8 at all times be preserved, invested, and expended solely and only
9 for the purposes of the trust and shall be held in trust for the
10 participants.

11 2. No property rights in the trust shall exist in favor of
12 the state.

13 3. The assets of the trust shall not be transferred or used
14 by the state for any purposes other than the purposes of the
15 trust.

16 Sec. 15. NEW SECTION. **12L.15 Interstate agreements.**

17 The treasurer of state may enter into agreements with other
18 states for the cooperative or joint administration of the Iowa
19 retirement savings plan trust if the treasurer of state finds
20 that doing so will facilitate the purposes of the trust.

21 Sec. 16. NEW SECTION. **12L.16 Penalties.**

22 1. An employer who fails, without reasonable cause, to enroll
23 an employee in the Iowa retirement savings plan trust shall
24 receive a warning for the initial offense. For subsequent
25 violations, an employer is subject to a civil penalty in an
26 amount not to exceed two hundred fifty dollars for each employee
27 for each calendar year or portion of a calendar year during which
28 the employee was neither enrolled in the trust nor had opted out
29 of participating in the trust. In determining the amount of the
30 penalty, the treasurer of state shall consider the number and
31 nature of the violations. Penalties collected under this section
32 shall be deposited in the general fund of the state.

33 2. The treasurer of state shall develop a process for an
34 employee to report employer noncompliance with the provisions of
35 this chapter. An employer shall not take disciplinary action or

1 otherwise retaliate against an employee who makes a report under
2 this section.

3 Sec. 17. NEW SECTION. **12L.17 Construction.**

4 This chapter shall be construed liberally in order to
5 effectuate its purpose.

6 Sec. 18. IMPLEMENTATION PROVISION.

7 1. The treasurer of state shall provide that when the
8 requirements of chapter 12L are enacted, individuals may begin
9 making contributions to the Iowa retirement savings plan trust,
10 as created by section 12L.2, as enacted in this Act, no earlier
11 than July 1, 2027.

12 2. For the first year of the trust's operation, this Act
13 applies to an employer with one hundred or more employees at
14 any time during the previous calendar year. For the second year
15 of the trust's operation, this Act applies to an employer with
16 fifty or more employees at any time during the previous calendar
17 year. For the third year of the trust's operation and for each
18 year thereafter, this Act applies to an employer with five or
19 more employees at any time during the previous calendar year as
20 provided in chapter 12L.

21 3. a. An employer that employs one hundred or more employees
22 at any time during the calendar year preceding the year in
23 which the trust is operating shall establish a payroll deposit
24 retirement savings arrangement within nine months after the
25 implementation date of the trust.

26 b. An employer that employs fifty or more employees at any
27 time during the calendar year preceding the second year in
28 which the trust is operating shall establish a payroll deposit
29 retirement savings arrangement within one year and nine months
30 after the implementation date of the trust.

31 c. An employer that employs five or more employees at any
32 time during the calendar year preceding the third year in
33 which the trust is operating shall establish a payroll deposit
34 retirement savings arrangement within two years and nine months
35 after the implementation date of the trust.

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EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill creates the Iowa retirement savings plan trust under the office of treasurer of state for the purpose of helping Iowans save for retirement. The bill provides that the trust be operated so that, for federal tax purposes, it meets the requirements of a retirement plan as provided by the Internal Revenue Code.

The state treasurer is the trustee of the trust and has numerous powers, as specified in the bill, for the purpose of carrying out the purpose of the trust. Powers granted the treasurer of state to effectuate the purpose of the trust include entering into agreements with trust participants and employers, investing moneys in the trust, and entering into any agreements or contracts necessary to carry out the purposes of the trust.

The bill provides that individuals who are employed for compensation in this state must be automatically enrolled in the trust by the individual's employer with a default contribution rate set by the treasurer of state. A participant may opt out of the trust at any time and may at any time choose a different contribution rate or investment option. The bill requires employers to designate an open enrollment period for the trust at least once per year.

The bill permits the treasurer of state to establish a low-risk investment portfolio and a target date portfolio, which is the default investment option. The treasurer of state must distribute informational packets to employers and employees about the trust and provide participating employers and participants with reports on the trust fund at least once per year. The bill also requires that all participant account information be maintained as confidential, except as necessary to administer the trust or as agreed to in writing by the person who provides the information or is the subject of the information.

The bill allows the treasurer of state to enter into

1 agreements with other states for the administration of the trust.

2 The bill creates civil penalties for employers who fail
3 to enroll an employee in the trust without reasonable cause,
4 enforced by the treasurer of state. A penalty shall not exceed
5 \$250 for each employee that an employer fails to enroll each
6 year. Civil penalties collected under the bill are deposited in
7 the general fund of the state.

8 The bill provides that the state, the treasurer of state,
9 and the trust shall not guarantee any rate of return on any
10 contributions to the trust and are not liable for any loss
11 incurred by any person as a result of participating in the trust.
12 The bill requires the treasurer to submit an annual audited
13 financial report on the operations of the trust.

14 The bill provides that when the requirements of the bill
15 are enacted, the treasurer shall not allow individuals to make
16 contributions to the trust earlier than July 1, 2027. During
17 the first year of the trust's operation, the bill applies to
18 employers that employed 100 or more employees at any time during
19 the prior year. In the second year, the bill applies to
20 employers that employed 50 or more employees at any time during
21 the prior year. After the second year, the bill applies to all
22 employers with five or more employees during the prior calendar
23 year.