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SENATE BILL NO. 1076

Offered January 11, 2017

Prefiled January 6, 2017

A *BILL to amend the Code of Virginia by adding in Chapter 18 of Title 2.2 an article numbered 6, consisting of sections numbered 2.2-1844 through 2.2-1850, relating to My Virginia Plan Program; retirement plans for employees of private employers.*

Patron—Ruff

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 18 of Title 2.2 an article numbered 6, consisting of sections numbered 2.2-1844 through 2.2-1850, as follows:

*Article 6.**My Virginia Plan Program.***§ 2.2-1844. Definitions.**

As used in this article, unless the context requires a different meaning:

"Approved plan" means a retirement plan offered by a financial services firm that meets the requirements of this article to participate in the Program.

"Balanced fund" means a mutual fund that has an investment mandate to balance its portfolio holdings. The fund generally includes a mix of stocks and bonds in varying proportions according to its investment outlook.

"Department" means the Virginia Department of the Treasury.

"Eligible employee" means an employee of an eligible employer in the Commonwealth who meets federal Internal Revenue Service requirements to be eligible to participate in a specific qualified plan.

"Eligible employer" means a self-employed individual, sole proprietor, or nongovernmental employer. "Eligible employer" does not include an employer that currently provides to its employees either a retirement plan that provides for employer contributions to its employees' accounts or individual retirement accounts funded by payroll deductions in which the employer does not contribute to its employees' accounts.

"Enrollee" means any eligible employee of a participating employer who voluntarily enrolls in an approved plan offered by an eligible employer through the Program.

"Financial services firms" means persons or entities who are registered with the Division of Securities and Retail Franchising of the State Corporation Commission pursuant to § 13.1-504 and meet all federal laws and regulations to offer retirement plans.

"myRA" means the myRA retirement program administered by the U.S. Department of the Treasury that is available to all employers and employees with no fees or no minimum contribution requirements. A myRA account is a Roth individual retirement account (IRA). Investments in myRA accounts are backed by the United States Treasury.

"My Virginia Plan Program" or "Program" means the retirement savings program created in § 2.2-1845 to connect eligible employers and their employees with approved plans to increase retirement savings.

"Participating employer" means any eligible employer with employees enrolled in an approved plan offered through the Program that chooses to participate in the Program and offers approved plans to employees for voluntary enrollment.

"Target date fund or other similar fund" means a hybrid mutual fund that automatically resets the asset mix of stocks, bonds, and cash equivalents in its portfolio according to a selected time frame that is appropriate for a particular investor. A target date fund is structured to address a projected retirement date.

§ 2.2-1845. My Virginia Plan Program created.

A. The Department shall establish and maintain the My Virginia Plan Program.

B. The Department shall ensure that the Program provides a range of investment options to meet the needs of investors with various levels of risk tolerance and various ages. The Department shall approve a diverse array of retirement plan options that are available to employers on a voluntary basis, including:

1. Life insurance plans that are designed for retirement purposes;

2. Plans that provide for employer contributions to enrollee accounts; and

3. Individual retirement accounts funded by payroll deductions in which the employer does not

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SB1076

59 contribute to the enrollee's account.

60 C. The Department shall ensure that the Program offers myRA.

61 D. Before connecting any eligible employer with an approved plan through the Program, the
62 Department shall develop a plan for operation of the Program.

63 E. The Department shall ensure that there are at least two financial services firms offering approved
64 plans through the Program; however, nothing in this subsection shall be construed to limit the number
65 of financial services firms that participate in the Program.

66 F. Participation in the Program shall be voluntary for both eligible employers and eligible
67 employees. Enrollment in any approved plan offered in the Program is not an entitlement.

68 **§ 2.2-1846. Administration of My Virginia Plan Program.**

69 A. The Department shall:

70 1. Establish criteria for reviewing and approving the qualifications of financial services firms that
71 seek to participate in the Program;

72 2. Design and operate a website that includes information about how eligible employers may
73 voluntarily participate in the Program; and

74 3. Determine whether to allow an employee with an existing individual retirement account to roll
75 over such account into his Program account.

76 B. The Department shall procure the services of financial services firms to offer retirement plans to
77 enrollees through the Program. In order to be eligible to participate in the Program, such firms shall,
78 at a minimum, meet the following criteria:

79 1. Register with the Division of Securities and Retail Franchising of the State Corporation
80 Commission pursuant to § 13.1-504;

81 2. Meet the requirements of all federal laws and regulations to offer retirement plans; and

82 3. Offer at least two product options, which shall include (i) a target date fund or other similar fund
83 that has asset allocations and maturities designed to coincide with the expected date of retirement and
84 (ii) a balanced fund.

85 C. The Department may contract with a private entity to assist in carrying out the provisions of this
86 section. Such entity shall not be eligible to offer retirement plans to enrollees through the Program.

87 **§ 2.2-1847. Fees; investment performance disclosure; rollovers.**

88 A. Any financial services firm participating in the Program shall not charge any administrative fees
89 to participating employers and may charge annual fees to enrollees. Such fees shall be in an amount
90 negotiated and agreed upon by the Department and financial services firms.

91 B. The Department shall charge fees to financial services firms to recoup start-up and ongoing costs.
92 After the Program has operated for one year, such fees shall not exceed ongoing costs.

93 C. Any financial services firm participating in the Program shall provide information about its
94 products' historical investment performance to enrollees.

95 D. Any financial services firm participating in the Program shall include the option for enrollees to
96 roll contributions into a different individual retirement account or retirement plan in the event the
97 enrollees choose to cease participating in a plan offered through the Program.

98 **§ 2.2-1848. State plan prohibited.**

99 The Department shall not expose the Commonwealth, as an employer or through administration of
100 the Program, to any potential liability under the federal Employee Retirement Income Security Act of
101 1974 (P.L. 93-406, 88 Stat. 829). The Department shall not offer or operate a state-administered
102 investment option for any businesses or individuals through the Program.

103 **§ 2.2-1849. Reporting.**

104 The Department shall report biennially to the Chairmen of the House Committee on Appropriations
105 and the Senate Committee on Finance on the effectiveness and efficiency of the Program. The report
106 shall include nonidentifying information regarding levels of enrollment and retirement savings levels of
107 enrollees.

108 **§ 2.2-1850. Revocation of eligibility; regulations.**

109 A. The Department may remove from the Program any plan that, at the time of or subsequent to
110 approval, fails to meet any of the requirements of this article.

111 B. The Department may adopt regulations necessary to allow the Program to operate as authorized
112 by this article. In developing such regulations, the Department may consult with organizations
113 representing eligible employers, qualified employees, private and nonprofit sector retirement plan
114 administrators and providers, organizations representing financial services firms, and any other
115 individuals or entities that the Department determines relevant to the development of an effective and
116 efficient method for operating the Program.