

18103448D

HOUSE BILL NO. 1049

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 27, consisting of sections numbered 2.2-2491 through 2.2-2498, relating to My Virginia Plan Program; retirement plans for employees of private employers.*

Patron—Torian

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 24 of Title 2.2 an article numbered 27, consisting of sections numbered 2.2-2491 through 2.2-2498, as follows:

*Article 27.**My Virginia Plan Program.***§ 2.2-2491. 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.

"Board" means the My Virginia Plan Board.

"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 § 2.2-2493 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.

§ 2.2-2492. My Virginia Plan Board; membership; terms; quorum.

A. The My Virginia Plan Board is established as a supervisory board in the executive branch of state government. The purpose of the Board is to establish and maintain the My Virginia Plan Program.

B. The Board shall have a total membership of fourteen members that shall consist of six legislative members, seven nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: four members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate, to be appointed by the Senate Committee on Rules;

INTRODUCED

HB1049

59 and seven nonlegislative citizen members who shall have experience in the financial industry related to
60 retirement to be appointed by the Governor, subject to confirmation by the General Assembly. The
61 Secretary of the Treasury or his designee shall serve ex officio with nonvoting privileges. Nonlegislative
62 citizen members of the Board shall be citizens of the Commonwealth.

63 C. Legislative members and ex officio members of the Board shall serve terms coincident with their
64 terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the
65 unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All
66 members may be reappointed. After the initial staggering of terms, nonlegislative citizen members shall
67 be appointed for a term of four years. No House member shall serve more than four consecutive
68 two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no
69 nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of
70 any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the
71 member's eligibility for reappointment.

72 D. The Board shall elect a chairman and vice-chairman from among its membership. The chairman
73 shall be a nonlegislative citizen member. A majority of the members shall constitute a quorum. Any
74 decision by the Board shall require an affirmative vote of a majority of the members of the Board.

75 E. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and
76 nonlegislative citizen members shall receive such compensation for the performance of their duties as
77 provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses
78 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the
79 costs of compensation and expenses of the members shall be provided by the Department of the
80 Treasury.

81 F. Staff support and technical assistance to the Board in carrying out the provisions of this article
82 shall be provided by the agencies of the Secretary of the Treasury.

83 **§ 2.2-2493. My Virginia Plan Program created.**

84 A. The Board shall establish and maintain the My Virginia Plan Program. The Board shall contract
85 with a private entity to assist in carrying out the provisions of this article.

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

- 89 1. Life insurance plans that are designed for retirement purposes;
90 2. Plans that provide for employer contributions to enrollee accounts; and
91 3. Individual retirement accounts funded by payroll deductions in which the employer does not
92 contribute to the enrollee's account.

93 C. The Board shall ensure that the Program offers myRA.

94 D. Before connecting any eligible employer with an approved plan through the Program, the Board
95 shall develop a plan for operation of the Program.

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

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

101 **§ 2.2-2494. Administration of My Virginia Plan Program.**

102 A. The Board shall:

- 103 1. Establish criteria for reviewing and approving the qualifications of financial services firms that
104 seek to participate in the Program;
105 2. Design and operate a website that includes information about how eligible employers may
106 voluntarily participate in the Program; and
107 3. Determine whether to allow an employee with an existing individual retirement account to roll
108 over such account into his Program account.

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

- 112 1. Register with the Division of Securities and Retail Franchising of the State Corporation
113 Commission pursuant to § 13.1-504;
114 2. Meet the requirements of all federal laws and regulations to offer retirement plans; and
115 3. Offer at least two product options, which shall include (i) a target date fund or other similar fund
116 that has asset allocations and maturities designed to coincide with the expected date of retirement and
117 (ii) a balanced fund.

118 C. The entity with which the Board contracts pursuant to subsection A of § 2.2-2493 to carry out the
119 provisions of this article shall not be eligible to offer retirement plans to enrollees through the Program.

120 **§ 2.2-2495. Fees; investment performance disclosure; rollovers.**

121 A. Any financial services firm participating in the Program shall not charge any administrative fees
 122 to participating employers and may charge annual fees to enrollees. Such fees shall be in an amount
 123 negotiated and agreed upon by the Board and financial services firms.

124 B. The Board shall charge fees to financial services firms to recoup start-up and ongoing costs. After
 125 the Program has operated for four years, such fees shall not exceed ongoing costs.

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

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

131 **§ 2.2-2496. State plan prohibited.**

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

136 **§ 2.2-2497. Reporting.**

137 The Board shall report biennially to the Chairmen of the House Committee on Appropriations and
 138 the Senate Committee on Finance on the effectiveness and efficiency of the Program. The report shall
 139 include nonidentifying information regarding levels of enrollment and retirement savings levels of
 140 enrollees.

141 **§ 2.2-2498. Revocation of eligibility; regulations.**

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

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

150 **2. That the initial appointments of nonlegislative citizen members shall be staggered as follows:**
 151 **three members for two years and four members for four years appointed by the Governor.**