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**HOUSE BILL NO. 2432**

Offered January 9, 2019

Prefiled January 8, 2019

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.*

*"My Virginia Plan Program" or "Program" means the retirement savings program established 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 14 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; and seven nonlegislative citizen members who shall have experience in the financial industry related to retirement to be appointed by the Governor, subject to confirmation by the General Assembly. The Secretary of the Treasury or his designee shall serve ex officio with nonvoting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.*

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

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

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

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

79 **§ 2.2-2493. My Virginia Plan Program established.**

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

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

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

89 C. Before connecting any eligible employer with an approved plan through the Program, the Board  
90 shall develop a plan for operation of the Program.

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

94 E. Participation in the Program shall be voluntary for both eligible employers and eligible  
95 employees. Enrollment in any approved plan offered in the Program is not an entitlement.

96 **§ 2.2-2494. Administration of My Virginia Plan Program.**

97 A. The Board shall:

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

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

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

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

115 **§ 2.2-2495. Fees; investment performance disclosure; rollovers.**

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

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

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

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

126 **§ 2.2-2496. State plan prohibited.**

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

131 **§ 2.2-2497. Reporting.**

132 The Board shall report biennially to the Chairmen of the House Committee on Appropriations and  
133 the Senate Committee on Finance on the effectiveness and efficiency of the Program. The report shall  
134 include nonidentifying information regarding levels of enrollment and retirement savings levels of  
135 enrollees.

136 **§ 2.2-2498. Revocation of eligibility; regulations.**

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

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

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