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**HOUSE BILL NO. 775**

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend the Code of Virginia by adding in Chapter 24 of Title 2.2 an article numbered 28, consisting of sections numbered 2.2-2496 through 2.2-2499.4, relating to My Virginia Plan; multiple employer retirement plan for private employers and their employees.*

Patrons—Ayala and Samirah

Referred to Committee on General Laws

**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 28, consisting of sections numbered 2.2-2496 through 2.2-2499.4, as follows:**

*Article 28.*

*My Virginia Plan.*

**§ 2.2-2496. Definitions.**

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

*"Board" means the My Virginia Plan Board.*

*"Eligible employee" means an employee of an eligible employer in the Commonwealth who meets Internal Revenue Service requirements to make contributions to a retirement account.*

*"Eligible employer" means a self-employed individual, sole proprietor, or nongovernmental employer.*

*"Enrollee" means any eligible employee of a participating employer who enrolls in the Plan.*

*"Individual account information" means names, addresses, telephone numbers, amounts contributed, earnings, and any personal identification information of an enrollee.*

*"My Virginia Plan" or "the Plan" means the defined contribution retirement plan for persons employed for compensation in the Commonwealth established in § 2.2-2498.*

*"Participating employer" means any eligible employer with an enrollee.*

**§ 2.2-2497. 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.*

*B. The Board shall have a total membership of seven members that shall consist of three legislative members, three nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: two 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; one member of the Senate, to be appointed by the Senate Committee on Rules; and three nonlegislative citizen members who shall have experience in the financial industry related to retirement, as follows: one eligible employee, one eligible employer with significant private-sector business experience, and one expert in the financial services industry. Such nonlegislative citizen members shall be appointed by the Governor, subject to confirmation by the General Assembly. The State Treasurer or his designee shall serve ex officio with voting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.*

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

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

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

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59 *Treasury.*

60 *F. Staff support and technical assistance to the Board in carrying out the provisions of this article*  
61 *shall be provided by the agencies of the State Treasurer.*

62 **§ 2.2-2498. Powers and duties of the Board.**

63 *A. The Board shall develop the Plan and conduct a market and legal analysis of the Plan.*

64 *B. The Board shall have the following powers:*

65 *1. To establish, implement, and maintain the Plan;*

66 *2. To adopt regulations for the administration of the Plan;*

67 *3. To direct the investment of the funds contributed to accounts in the Plan consistent with objectives*  
68 *and restrictions established by the Board. In doing so, the Board shall exercise the judgment and care*  
69 *then prevailing that persons of prudence, discretion, and intelligence exercise in the management of*  
70 *their own affairs with due regard to the probable income and level of risk from certain types of*  
71 *investments of money;*

72 *4. To collect application, account, or administrative fees to defray the costs of administering the*  
73 *Plan; and*

74 *5. To make and enter into contracts, agreements, or arrangements and to retain, employ, and*  
75 *contract for any of the following considered necessary or desirable for carrying out the purposes of this*  
76 *article:*

77 *a. Services of private and public financial institutions, depositories, consultants, investment advisors,*  
78 *investment administrators, and third-party plan administrators;*

79 *b. Research and technical services;*

80 *c. Services of other agencies to assist the Board in its duties;*

81 *d. Evaluation of and procurement of pooled private insurance of the Plan; and*

82 *e. Development and implementation of an outreach plan to gain input and disseminate information*  
83 *regarding the Plan and retirement savings in general.*

84 **§ 2.2-2499. Requirements for the Plan.**

85 *The Plan developed and established by the Board shall:*

86 *1. Allow enrollees to contribute to an account established under the Plan through payroll deduction;*

87 *2. Allow an eligible employer to offer eligible employees the opportunity to contribute to the Plan*  
88 *through payroll deduction;*

89 *3. Provide for automatic enrollment of all eligible employees of a participating employer;*

90 *4. Have a default contribution rate, as determined by the Board and promulgated by regulation;*

91 *5. Offer default escalation of contribution levels that may be increased or decreased within the limits*  
92 *allowed under the Internal Revenue Code;*

93 *6. Provide for contributions to the Plan to be deposited directly with the investment administrator for*  
94 *the Plan;*

95 *7. Whenever possible, use existing employer and public infrastructure to facilitate contributions to*  
96 *the Plan, recordkeeping, and outreach;*

97 *8. Allow but not require a participating employer to contribute to the account of an enrollee;*

98 *9. Require the maintenance of separate records and accounting for each account in the Plan;*

99 *10. Provide for reports on the status of Plan accounts to be provided to enrollees at least annually;*

100 *11. Allow for an enrollee to maintain an account regardless of his place of employment and to roll*  
101 *over funds into other retirement accounts;*

102 *12. Pool accounts established under the Plan for investment;*

103 *13. Be professionally managed;*

104 *14. Provide that the Commonwealth has no proprietary interest in the contributions to or earnings*  
105 *on amounts contributed to accounts established under the Plan;*

106 *15. Provide that the investment administrator for the Plan is the trustee of all contributions and*  
107 *earnings on amounts contributed to accounts established under the Plan;*

108 *16. Keep administration fees in the plan low;*

109 *17. Allow the use of public and private sector partnerships to administer and invest the contributions*  
110 *to the Plan under the supervision and guidance of the Board; and*

111 *18. Coordinate with the efforts of other states that pursue legal guidance for similar retirement*  
112 *savings programs.*

113 **§ 2.2-2499.1. Plan regulations.**

114 *A. The Board shall adopt regulations that establish the process for:*

115 *1. Voluntary enrollment in the Plan by eligible employers;*

116 *2. Enrollees to make default contributions to Plan accounts and to adjust contribution levels;*

117 *3. Participating employers to withhold enrollee contributions to Plan accounts from enrollee wages*  
118 *and send the contributions to the investment administrator for the Plan;*

119 *4. Enrollees to make nonpayroll contributions to Plan accounts;*

120 *5. Setting minimum, maximum, and default contribution levels in accordance with limits established*

121 by the Internal Revenue Code; and

122 6. Withdrawing from Plan accounts.

123 B. The Board shall adopt regulations that mandate the content and frequency of required disclosures  
124 to enrollees and participating employers, which shall include:

125 1. Benefits and risks associated with making contributions to the Plan;

126 2. Instructions for making contributions to the Plan;

127 3. Instructions for participating in the Plan with a contribution level that is different from the default  
128 contribution rate;

129 4. The process for withdrawal of retirement savings;

130 5. A statement that an enrollee seeking financial advice should contact a financial advisor, that a  
131 participating employer is not qualified to provide financial advice, and that a participating employer is  
132 not liable for any decision made by an enrollee related to the Plan; and

133 6. A statement that neither the funds in Plan accounts nor a rate of return are guaranteed by the  
134 Commonwealth.

135 **§ 2.2-2499.2. Confidentiality of account information.**

136 The Board and any entity working with the Board on the program shall keep individual account  
137 information confidential:

138 1. Except to the extent necessary to administer the Plan and comply with Title 58.1 (§ 58.1-1 et seq.)  
139 and the Internal Revenue Code; and

140 2. Unless the enrollee who is the subject of the individual account information agrees in writing that  
141 such information may be disclosed.

142 **§ 2.2-2499.3. Reporting.**

143 The Board shall report biennially to the Chairmen of the House Committee on Appropriations and  
144 the Senate Committee on Finance on the effectiveness and efficiency of the Plan. The report shall  
145 include nonidentifying information regarding levels of enrollment and retirement savings levels of  
146 enrollees.

147 **§ 2.2-2499.4. Indemnification.**

148 The Plan, the Board, each board member, and the Commonwealth shall not guarantee any rate of  
149 return or interest rate on any contribution, nor shall they be liable for any loss incurred by any person  
150 as a result of participating in the Plan.

151 **2. That the initial appointments by the Governor of nonlegislative citizen members to the My**  
152 **Virginia Plan Board, as created by this act, shall be staggered as follows: two members for a term**  
153 **of two years and one member for a term of four years.**

154 **3. That the My Virginia Plan Board shall establish the My Virginia Plan so that enrollees may**  
155 **begin making contributions to the My Virginia Plan on or before July 1, 2022.**