



SPONSOR: Rep. Lambert

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 3
TO
HOUSE BILL NO. 205

1 AMEND House Bill No. 205 on line 42 by inserting between “State.” and “Covered” as they appear therein the
2 following: “The Board may limit through regulation eligibility for specific categories of employees in order to avoid
3 creating accounts that could increase administrative or management fees associated with available investment options.”

4 FURTHER AMEND House Bill No. 205 by inserting after line 47 and before line 48 the following:

5 “d. Any employee who is ineligible for covered employee status under regulations promulgated by the Board.
6 e. Any employee under the age of 18.”

7 FURTHER AMEND House Bill No. 205 by striking lines 76 through 78 in their entirety and inserting in lieu
8 thereof the following:

9 “(14) “Specified tax-favored retirement plan” means a retirement plan that is an automatic enrollment payroll
10 deduction IRA applicable to all covered employees and meeting all other qualifications that may be established by the
11 Board, or a retirement plan qualified under, or described in, and in compliance with §§ 401(a), 401(k), 403(b), 408(k), or
12 408(p) of the Internal Revenue Code.”

13 FURTHER AMEND House Bill No. 205 on line 147 by inserting after “Program.” the following:

14 “The Board may discuss the opportunity for qualified minority-, woman-, veteran-, and disabled-owned financial
15 firms, or firms with a record of equity, diversity and inclusion within the firm, as a provider of investment advisory
16 services.”

17 FURTHER AMEND House Bill No. 205 on line 101 by striking “board” as it appears therein and inserting in lieu
18 thereof: “Board”.

19 FURTHER AMEND House Bill No. 205 on line 102 by striking “board” as it appears therein and inserting in lieu
20 thereof: “Board”.

21 FURTHER AMEND House Bill No. 205 on line 104 by striking “board” as it appears therein and inserting in lieu
22 thereof: “Board”.

23 FURTHER AMEND House Bill No. 205 on line 134 by striking “Contribution” as it appears therein and
24 inserting in lieu thereof: “Contribution”.

25 FURTHER AMEND House Bill No. 205 on line 150 by striking “board’s” as it appears therein and inserting in
26 lieu thereof: “Board’s”.

27 FURTHER AMEND House Bill No. 205 by striking lines 151 through 158 in their entirety and inserting in lieu
28 thereof the following:

29 “(8) The Board shall establish the trust. The trust shall include a participant fund that shall hold all participant
30 IRA asserts and earnings and an administrative fund that shall hold all fees collected from participants, all
31 administrative penalties recovered under this chapter, and other amounts received from other funding sources, other
32 than appropriations and earnings thereon. Participant contributions shall be allocated to the participant fund and
33 combined solely for investment purposes. Each participant shall own the contributions to and earnings on the
34 participant’s account. Program expenses shall be paid from the administrative fund or appropriations. Trust assets shall
35 not be transferred or used by the Board for any purpose not expressly authorized by this chapter and shall not be
36 commingled with State or non-program funds.”

37 FURTHER AMEND House Bill No. 205 by striking lines 196 through 199 in their entirety and inserting in lieu
38 thereof the following:

39 “(18) The Board shall arrange for an annual financial audit of the Program by an outside auditor which shall
40 be provided to the General Assembly. Notwithstanding § 2906(c) of Title 29, the Board shall have exclusive authority
41 to select and contract with a certified public accounting firm to conduct the audits. Payment for any audit must be
42 approved by the Board.”

43 FURTHER AMEND House Bill No. 205 by inserting after line 204 the following:

44 “(20) The Board may establish a needs-based small business support grant program for covered employers
45 who require payroll software or similar products or support to implement the Program. The grant program may be
46 funded by appropriations or administrative fees. The grant program shall be subject to the annual administrative budget
47 process. The Board shall prescribe rules and promulgate regulations governing eligibility for grant recipients, the grant
48 application process, and terms and conditions for any award. The Board shall be responsible for providing oversight for
49 the grant program. The Office of the State Treasurer shall administer the grant program and shall report to the Board
50 regarding grant program operations when requested to do so by the Board.”

51 FURTHER AMEND House Bill No. 205 on line 106 by striking “board” as it appears therein and inserting in lieu
52 thereof: “Board”.

53 FURTHER AMEND House Bill No. 205 on line 208 by striking “state” as it appears therein and inserting in lieu
54 thereof: “State”.

55 FURTHER AMEND House Bill No. 205 on line 209 by striking “board” as it appears therein and inserting in lieu
56 thereof: “Board”.

57 FURTHER AMEND House Bill No. 205 on line 211 by striking “board” as it appears therein and inserting in lieu
58 thereof: “Board”.

59 FURTHER AMEND House Bill No. 205 on line 215 by striking “board” as it appears therein and inserting in lieu
60 thereof: “Board”.

61 FURTHER AMEND House Bill No. 205 on line 217 by striking “board” as it appears therein and inserting in lieu
62 thereof: “Board”.

63 FURTHER AMEND House Bill No. 205 on line 228 by striking “board” as it appears therein and inserting in lieu
64 thereof: “Board”.

65 FURTHER AMEND House Bill No. 205 on line 234 by striking “board” as it appears therein and inserting in lieu
66 thereof: “Board”.

67 FURTHER AMEND House Bill No. 205 on line 237 by striking “board” as it appears therein and inserting in lieu
68 thereof: “Board”.

69 FURTHER AMEND House Bill No. 205 on line 286 by striking “board” as it appears therein and inserting in lieu
70 thereof: “Board”.

71 FURTHER AMEND House Bill No. 205 by striking lines 312 through 330 in their entirety and inserting in lieu
72 thereof the following:

73 “§ 3705. Compliance.

74 (a) The Board shall have exclusive authority to ensure compliance with and enforce this chapter or any regulation
75 promulgated under this chapter.

76 (b) The Board shall establish a process for the submission of employee complaints concerning a covered
77 employer’s alleged failure to comply with this chapter. All complaints concerning a covered employer’s compliance with
78 this chapter received by any other State agency shall be referred to the Board. The Board may, with or without a complaint,
79 monitor the status of covered employers’ compliance with this chapter, including through review of available data and
80 documents.

81 (c) If the Board determines that a covered employer is not in compliance with this chapter or regulations issued
82 hereunder, the Board shall issue a notice to the employer outlining the nature and extent of the alleged noncompliance,
83 providing instructions for compliance, and specifying the potential administrative penalties for noncompliance.

84 (d) If the employer does not come into compliance within 90 days of the date the notice was issued, the Board, in
85 its discretion, may initiate enforcement proceedings under Subchapter III, Chapter 101 of Title 29. The Board shall not
86 initiate enforcement proceedings against a covered employer until one year after the date on which the employer is required
87 to comply with this chapter for the first time.

88 (e) The Board may, in a final order, impose administrative penalties against a covered employer who fails to
89 comply with this chapter or any regulation promulgated under this chapter, which penalties shall not exceed \$250 per
90 employee per year, up to a maximum total penalty of \$5,000 per year.”

SYNOPSIS

This Amendment authorizes the EARNS Program Board to limit eligibility to participate in the Program to categories of employees whose participation would not cause an increase in administrative or management fees, clarifies the definition of “Specified tax-favored retirement plans”, permits the Board to discuss choosing diverse financial firms to act as providers of investment advisory services and authorizes the establishment of a grant program to support small businesses that might need economic support to purchase software or other services necessary to implement the Program. Additionally, the amendment authorizes the Board to engage the firm responsible for conducting annual audits, gives the Board exclusive authority to ensure compliance with program requirements, establishes enforcement and compliance procedures and makes certain other non-substantive changes.