



SPONSOR: Rep. Lambert

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 3
TO
HOUSE BILL NO. 205

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

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

“d. Any employee who is ineligible for covered employee status under regulations promulgated by the Board.

e. Any employee under the age of 18.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“§ 3705. Compliance.

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

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