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Briggs King, Bush, Griffith, Harris, Heffernan, Hilovsky,
Lynn, Minor-Brown, Osienski

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 94

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO EMPLOYER CONTRIBUTIONS TO DEFERRED COMPENSATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 6052, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 6052. Definitions.

4 As used in this chapter:

5 (5) "Maximum annual match" means the maximum match multiplied by the number of pay periods in the plan
6 year.

7 (6) "Maximum match" means \$20.

8 ~~(5)(7)~~ "Qualified participant" is defined as means an employee of the State, including school districts, who
9 has deferred compensation under this chapter. ~~the provisions of this chapter and satisfies either of the following~~
10 ~~conditions:~~

11 ~~a. Employee must be enrolled in the deferred compensation program for no less than 6 consecutive~~
12 ~~months immediately preceding receipt of the match;~~

13 ~~b. Employee has deferred the maximum allowable by the Internal Revenue Service within the 6 months~~
14 ~~preceding receipt of the match.~~

15 (8) "Qualified student loan payment" has the meaning assigned by 26 U.S.C. § 401(m).

16 Section 2. Amend § 6061, Title 29 of the Delaware Code by making deletions as shown by strike through and
17 insertions as shown by underline as follows:

18 § 6061. Employer contribution to qualified participants [Suspended effective July 1, 2008; see 83 Del. Laws, c.
19 339, § 24].

20 (a) Commencing January 1, 2001, and each pay period thereafter, an amount equal to 100 percent of the voluntary
21 contribution of every qualified participant, not to exceed \$10 the maximum match per pay period, shall be credited to the §

22 457(b) [26 U.S.C. § 457(b)], § 403(b) [26 U.S.C. § 403(b)], or § 401(a) [26 U.S.C. § 401(a)] account of each qualified
23 participant making a voluntary deferral under the provisions of this chapter. ~~The employer contribution shall be remitted~~
24 each pay period by the State Treasurer from an appropriation authorized for this purpose.

25 (b) By not later than January 1, 2025, the Board shall approve plan amendments to permit qualified participants to
26 be eligible to receive employer contributions based on their qualified student loan payments to the extent permitted under
27 26 U.S.C. § 401(m). The Board shall establish a process by which qualified participants can certify their qualified student
28 loan payments in compliance with federal law and regulations. Employer contributions under this subsection are subject to
29 rules or procedures as the Board may prescribe, including rules or procedures relating to the timing and manner of the
30 student loan payment certifications and the resulting employer contributions.

31 (c) The aggregate annual amount of all employer contributions credited to a qualified participant under this section
32 may not exceed the maximum annual match within a single plan year.

33 (d) The Board shall select the plan or plans into which employer contributions should be deposited and shall make
34 any necessary changes to the plan or plans reflecting that determination. In making that determination, the Board shall
35 consider the benefits of reducing administrative costs, as well as avoiding burdens to participants associated with
36 maintaining accounts in multiple plans.

37 (e) Employer contributions credited to participant accounts under subsections (a) and (b) of this section must be
38 remitted by the State Treasurer from an appropriation authorized for this purpose. Modifications to the match amount per
39 pay period, percentage of contribution matched, number of pay periods per year to be ~~matched~~ matched, and other fiscal
40 and operational aspects of the program are contingent ~~upon~~ on funding by the General Assembly and may be administered
41 through rules and regulations promulgated by the Board and pursuant to ~~§ 401(a) of the Internal Revenue Code (26 U.S.C.~~
42 ~~§ 401(a))~~ under applicable federal law.

SYNOPSIS

The State of Delaware previously offered an employer match for state employee contributions to the deferred compensation program. The purpose of the match was to help state employees save and build wealth for retirement and to enable state government to recruit and retain talent by offering a valuable retirement savings benefit. In July 2008, during the Great Recession, the State suspended the employer match to cut costs. Every year since fiscal year 2008, the General Assembly has written in the annual appropriations bill: “It is the intent of the General Assembly that this program be reinstated when funding becomes available.”

This Act updates the laws governing the employer match in anticipation of the General Assembly restoring the match this session and increases the maximum match to \$20 per pay period. This Act also eases restrictions on which participants are eligible for the match.

To help employees who are unable to save for retirement because of their student loan burden, this Act enables a match for employee’s student loan payments with employer contributions to their deferred compensation account. Congress enabled employers to make this type of matching contribution with the passage of the SECURE 2.0 Act, which was included in the Federal Fiscal Year 2023 Omnibus Appropriations Bill.

This Act provides the Plans Management Board with the discretion to determine which plan the matching contributions should be deposited into.

Author: Senator Paradee