

By Mr. Coughlin of Dedham, petition of Robert K. Coughlin and Timothy P. Cahill that the Treasurer and Receiver-General of the Commonwealth be authorized to establish retirement plans for employees of non-profit organizations. Education.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO PROVIDE RETIREMENT OPTIONS FOR NONPROFIT ORGANIZATIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 29 of the General Laws, as appearing in  
2 the 2004 Official Edition, is hereby further amended by adding  
3 the following new section, section 64E(1):

4 The state treasurer may conduct research regarding the current  
5 status of retirement programs available to not-for-profit  
6 employees, and the appeal of creating a program for their benefit.  
7 For the purposes of implementing and administering a defined  
8 contribution plan for the benefit of not-for-profit employees, the  
9 state treasurer shall have, in addition to all other powers and  
10 duties provided by this chapter, the following additional powers  
11 and duties with respect to the programs expressed in Massachu-  
12 setts General Laws chapter 29, section 64 and Massachusetts  
13 General Laws chapter 10 section 18:

1 SECTION 2. Chapter 29 of the General Laws, as appearing in  
2 the 2004 Official Edition, is hereby further amended by adding  
3 the following new section, section 64E(2):

4 The state treasurer of the commonwealth, on behalf of the com-  
5 monwealth, may sponsor a defined contribution plan that may be  
6 adopted by not-for-profit employers for their employees in accor-  
7 dance with Section 401(a) of the U.S. Internal Revenue Code, (the  
8 "Code"), regulations provided under that section, and applicable  
9 guidance from the Internal Revenue Service. The state treasurer

10 shall obtain approval from the Internal Revenue Service with  
11 respect to the plan and shall provide for administration of the plan  
12 so that it is in compliance with the Code and other applicable  
13 federal and state laws including the Employee Retirement Income  
14 Security Act of 1974 (“ERISA”).

15 The plan shall provide for a qualified trust under Section 401(a)  
16 of the Code, with contributions made to the trust by the not-for-  
17 profit employer, the employer’s employees, or both. Under the  
18 trust instrument it shall be impossible, at any time prior to the sat-  
19 isfaction of all liabilities with respect to employees and their ben-  
20 efiiciaries under the trust, for any part of the corpus or income to  
21 be used for, or diverted to, purposes other than the exclusive ben-  
22 efit of employees or their beneficiaries.

23 In order to participate in the plan, a not-for-profit employer  
24 must (i) execute a participation agreement, and (ii) agree to the  
25 terms of the plan and to operate the plan in compliance with the  
26 Code and ERISA. The state treasurer may require that the not-  
27 for-profit employer sign a service agreement and use forms and  
28 procedures prescribed by the treasurer. The state treasurer may  
29 also require that certain employers seek approval from the Internal  
30 Revenue Service with respect to their plans.

1 SECTION 3. Chapter 29 of the General Laws, as appearing in  
2 the 2004 Official Edition, is hereby further amended by adding the  
3 following new section 64E(3):

4 The state treasurer may contract with practitioners, administra-  
5 tors, investment managers, and other entities in order to design,  
6 administer, and provide investment options under the plan. The  
7 state treasurer shall, before making any such contract, solicit bids  
8 from companies authorized to conduct business within the  
9 commonwealth, which bids shall be sealed, and opened at a time  
10 and place designated by the treasurer. Any bid submitted shall,  
11 where applicable, clearly indicate the interest rate which shall be  
12 paid on the deferred funds, any commissions which will be paid to  
13 the salesmen, any load imposed for the purpose of administering  
14 the funds, mortality projections, expected payouts, tax implica-  
15 tions for participating employees and such other information as  
16 the treasurer may require. Any contract entered into between an  
17 employee and the not-for-profit employer pursuant to this section

18 shall include all such information in terms the employee can  
19 reasonably be expected to understand. Upon the treasurer's  
20 determining which provider offers the product or products most  
21 beneficial to the employee in each category for which bids were  
22 solicited, the employee may choose the investment option(s) for  
23 their account.

24 Notwithstanding any provisions to the contrary, the state trea-  
25 surer shall not be required to solicit bids to invest the contributed  
26 portion of an employee's income into the employee's 401(k)  
27 account provided: (a) that the state treasurer is authorized by the  
28 employee to pay that portion of the employee's compensation into  
29 the employee's 401(k) account in the same investment products as  
30 provided through a deferred compensation plan for employees of  
31 the commonwealth administered by the state treasurer, and (b) that  
32 such plan resulted from the solicitation of bids in accordance with  
33 requirements provided under this section.

1 SECTION 4. Chapter 29 of the General Laws, as appearing in  
2 the 2004 Official Edition, is hereby further amended by adding the  
3 following new section 64E(4):

4 There shall be in the office of the state treasurer a not-for-profit  
5 defined contribution committee. The committee shall consist of  
6 the state treasurer or his designee, who shall serve as chairperson,  
7 and 6 additional members appointed by the state treasurer, 3 shall  
8 have practical experience in the human services, educational, or  
9 public and societal benefit sector of the non-profit community.  
10 The remaining three appointees shall be currently employed by  
11 not-for-profit corporations. The initial term of the first three  
12 appointees shall be for two years and the initial term of the  
13 remaining appointees shall be for three years. Except that future  
14 appointments of the fourth, fifth, and sixth members shall be  
15 arranged so as not to expire in the same year. All subsequent  
16 appointments, including reappointments, shall be for a term of  
17 three years. In the case of a vacancy of any of the members, a  
18 successor shall be appointed as aforesaid for a full term or for the  
19 unexpired portion thereof, as the case may be. A member of the  
20 committee shall be eligible for reappointment. The committee  
21 shall annually elect 1 of its members to serve as vice-chairperson.  
22 Each member of the committee serving ex officio may appoint a



23 designee pursuant to section 6A of chapter 30. Said committee  
24 shall meet from time to time and assist the state treasurer in the  
25 development of general policy regarding the program, and shall  
26 provide technical advice and input to the state treasurer. The  
27 members of said committee shall serve without compensation, but  
28 shall be reimbursed for expenses necessarily incurred in the per-  
29 formance of their duties.

1 SECTION 5. Chapter 29 of the General Laws, as appearing in  
2 the 2004 Official Edition, is hereby further amended by adding the  
3 following new section 64E(5):

4 The state treasurer is hereby authorized to make necessary rules  
5 and regulations and do all things convenient to carry out the pro-  
6 visions and purposes of this section.

1 SECTION 6. Chapter 29 of the General Laws, as appearing in  
2 the 2004 Official Edition, is hereby further amended by adding the  
3 following new section 64E(6):

4 As used in this section, the term “not-for-profit employer” shall  
5 include eligible organizations incorporated under the Internal  
6 Revenue Code Section 501(c), but does not include a govern-  
7 mental employer.