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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO PUBLIC FINANCE -- RHODE ISLAND RETIREMENT SAVINGS
PROGRAM ACT

Introduced By: Representatives Shanley, Shekarchi, Craven, Carson, Abney, Donovan,
Serpa, Edwards, McEntee, and Slater

Date Introduced: January 10, 2024

Referred To: House Finance

(General Treasurer)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 35 of the General Laws entitled "PUBLIC FINANCE" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 23

4 RHODE ISLAND SECURE CHOICE RETIREMENT SAVINGS PROGRAM ACT

5 **35-23-1. Short title.**

6 This chapter shall be known and may be cited as the "Rhode Island Secure Choice
7 Retirement Savings Program Act."

8 **35-23-2. Definitions.**

9 As used in this chapter:

10 (1) "Eligible employee" means a person age eighteen (18) years or older who is employed
11 by an eligible or optional employer and has been employed for a period of not less than one hundred
12 twenty (120) days. "Eligible employee" does not include:

13 (i) Any employee covered under the federal Railway Labor Act (45 U.S.C. §§ 151-164 and
14 45 U.S.C §§ 181-188), or any employee engaged in interstate commerce not subject to the
15 legislative powers of the state, except insofar as application of this chapter is authorized under the
16 United States Constitution or laws of the United States; or

17 (ii) Any employee on whose behalf an employer makes contributions to a Taft-Hartley
18 pension trust fund.

1 (2) “Eligible employer” means a person or entity engaged in a business, industry,
2 profession, trade, or other enterprise in the state, whether for-profit or not-for-profit, excluding the
3 federal government, the state, any municipal corporation, or any of the state's units or
4 instrumentalities, that has five (5) or more employees and that satisfies the requirements to establish
5 or participate in a payroll deposit retirement savings arrangement. “Eligible employer” does not
6 include an employer that provides a tax qualified retirement savings program as described in § 35-
7 23-10.

8 (3) “IRA” means an individual retirement account or individual retirement annuity under
9 26 U.S.C §§ 408 or 408A (the federal Internal Revenue Code).

10 (4) “Optional employer” means a person or entity engaged in a business, industry,
11 profession, trade, or other enterprise in the state, whether for-profit or not-for-profit, excluding the
12 federal government, the state, any municipal corporation, or any of the state’s units or
13 instrumentalities, that has under five (5) employees.

14 (5) “Participating employer” means an eligible or optional employer that provides a payroll
15 deposit retirement savings arrangement provided for by this chapter for eligible employees.

16 (6) “Payroll deposit retirement savings arrangement” means an arrangement by which an
17 employer allows employees to remit payroll deduction contributions to the RISavers retirement
18 savings program.

19 (7) “RISavers retirement savings program” or “program” means a retirement savings
20 program offered by the Rhode Island secure choice retirement savings program.

21 (8) “State investment commission” or “commission” means the state investment
22 commission established pursuant to the provisions of § 35-10-1.

23 **35-23-3. Rhode Island secure choice retirement savings program.**

24 (a) There is hereby established a retirement savings program known as the Rhode Island
25 secure choice retirement savings program to be administered by the office of the general treasurer
26 for the purpose of promoting greater retirement savings for Rhode Island private sector employees
27 in a convenient, voluntary, low-cost, and portable manner.

28 (b) The secure choice retirement savings program is a plan in which retirement savings are
29 accumulated in individual accounts for the exclusive benefit of the participants or their
30 beneficiaries. The program shall be functionally implemented upon receipt of funds pursuant to the
31 provisions of this chapter.

32 **35-23-4. Investments.**

33 (a) The office of the general treasurer may select an appropriate third-party administrator(s)
34 for the program and shall adopt such plan, trust and/or custodial documents, with such features and

1 attributes as the office of the general treasurer determines necessary or advisable in its discretion
2 to effectuate the provisions of this chapter in accordance with the following:

3 (1) The office of the general treasurer may select one or more firm(s) or company(ies) to
4 provide retirement program investments, program administration, and communication services to
5 employees who participate in the retirement savings program. The program shall provide for
6 appropriate long-term retirement-oriented investments and shall include investment options as
7 determined by the state investment commission. In determining the firm(s) or the company(ies) to
8 provide these services, the office of the general treasurer shall consider the following:

9 (i) The financial stability of the company or firm;

10 (ii) The cost of the investments, program administration, and services to the members;

11 (iii) The experience of the company or firm in administering retirement savings plans;

12 (iv) The experience of the company or firm in providing education, counseling, and advice
13 to participants of retirement savings plans; and

14 (v) Any criminal convictions, securities or antitrust law violations, material civil or
15 regulatory fines or judgments against the company or firm which the company or firm shall be
16 required to disclose to the office of the general treasurer and the commission as part of the selection
17 process.

18 (2) The program shall provide education, counseling, and objective employee-specific plan
19 advice to participants.

20 (3) The program shall include a limited number of investment options which shall include
21 either:

22 (i) Investment portfolio options that are constructed to reflect different risk profiles such
23 as conservative, moderate and aggressive; and/or

24 (ii) Options constructed to reflect different risk profiles that automatically reallocate and
25 rebalance contributions as an employee ages. There shall be investment options that prioritize the
26 securities of companies that demonstrate good governance, efficient use of environmental resources
27 and thoughtful management of social impact. All investment offerings shall be approved by the
28 state investment commission.

29 (b) The Rhode Island secure choice retirement savings program is an instrumentality of the
30 state. Any security issued, managed, or invested by the state investment commission within the
31 Rhode Island secure choice retirement savings program on behalf of an individual participating
32 within the RISavers retirement savings program shall be state income tax deferred for investment
33 earnings to include interest, dividends and capital gains until such time as withdrawal pursuant to
34 the terms of this chapter.

1 (c) The third-party administrator(s) shall adopt a written statement of investment policy
2 that includes a risk management and oversight program. The state investment commission shall
3 consider the statement of investment policy and any changes in the investment policy at a public
4 meeting.

5 **35-23-5. Payroll deduction.**

6 The RISavers retirement savings program shall include, as determined by the office of the
7 general treasurer, one or more payroll deduction IRA arrangements.

8 **35-23-6. Powers of the office of the general treasurer.**

9 (a) The office of the general treasurer shall have the power and authority to do all of the
10 following:

11 (1) Adopt a seal and change and amend it from time to time;

12 (2) Make provisions for the payment of costs of administration and operation of the
13 program;

14 (3) Retain and contract with a Rhode Island public retirement system, consultants,
15 actuaries, counsel, auditors, and other professionals as necessary;

16 (4) Procure insurance against any loss in connection with the property, assets, or activities
17 of the program;

18 (5) Set minimum and maximum contribution levels in accordance with contribution limits
19 set for IRAs by the Internal Revenue Code;

20 (6) Collaborate and cooperate with private financial institutions, service providers, and
21 business, financial, trade, membership, and other organizations to the extent necessary or desirable
22 for the effective and efficient design, implementation, and administration of the program and to
23 maximize outreach to eligible or optional employers and eligible employees;

24 (7) Collaborate with, and evaluate the role of, licensed insurance agents and financial
25 advisors in assisting and providing guidance for eligible employees;

26 (8) Cause expenses incurred to initiate, implement, maintain, and administer the program
27 to be paid from contributions to, or investment returns or assets of, the program or arrangements
28 established under the program, to the extent permitted under state and federal law;

29 (9) Facilitate compliance by the retirement savings program or arrangements established
30 under the program with all applicable requirements for the program under the Internal Revenue
31 Code of 1986, including tax qualification requirements or any other applicable law and accounting
32 requirements, including providing or arranging for assistance to program sponsors and individuals
33 in complying with applicable law and tax qualification requirements in a cost-effective manner;

34 (10) Carry out the duties and obligations of the Rhode Island secure choice retirement

1 savings program pursuant to this title and exercise any and all other powers as appropriate for the
2 effectuation of the purposes, objectives, and provisions of this title pertaining to the program;

3 (11) Enter into intergovernmental agreements with any state agency to further the
4 successful implementation and operation of the program and all such agencies and instrumentalities
5 shall cooperate with the office of the general treasurer. All state agencies shall cooperate as
6 requested by the program in the performance of its duties under this chapter, including, unless
7 otherwise prohibited, the sharing of relevant data as the parties shall mutually agree;

8 (13) Make and enter into contracts, agreements, memoranda of understanding,
9 arrangements, partnerships, or other arrangements to collaborate, cooperate, coordinate, contract,
10 or combine resources, investments, or administrative functions with other governmental entities,
11 including any states or their agencies or instrumentalities that maintain or are establishing
12 retirement savings programs compatible with the program, including collective, common, or pooled
13 investments with other funds of other states' programs with which the assets of the program and
14 trust are permitted by law to be collectively invested, to the extent necessary or desirable for the
15 effective and efficient design, administration, and implementation of the program consistent with
16 the purposes set forth in this title, including the purpose of achieving economies of scale and other
17 efficiencies designed to minimize costs for the program and its participants; and

18 (14) Develop and implement an investment policy that defines the program's investment
19 objectives, consistent with the objectives of the program, and that provides for policies and
20 procedures consistent with those investment objectives. The office of the general treasurer shall
21 designate appropriate default investments that include a mix of asset classes, such as target date
22 and balanced funds. The office of the general treasurer shall seek to minimize participant fees and
23 expenses of investment and administration. The office of the general treasurer shall strive to design
24 and implement investment options available to holders of accounts established as part of the
25 program and other program features that are intended to achieve maximum possible income
26 replacement balanced with an appropriate level of risk in an IRA-based environment consistent
27 with the investment objectives under the policy. The investment options may encompass a range
28 of risk and return opportunities and allow for a rate of return commensurate with an appropriate
29 level of risk in view of the investment objectives under the policy. The menu of investment options
30 shall be determined taking into account the nature and objectives of the program, the desirability
31 (based on behavioral research findings) of limiting investment choices under the program to a
32 reasonable number, and the extensive investment choices available to participants in the event that
33 they roll over to an IRA outside the program.

34 (b) The office of the general treasurer shall adopt regulations it deems necessary to

1 implement this chapter consistent with the Internal Revenue Code and regulations issued pursuant
2 to that code to ensure that the program meets all criteria for federal tax-deferral or tax-exempt
3 benefits, or both.

4 **35-23-7. Additional authority of the office of the general treasurer.**

5 In addition to the powers and authority granted to the office of the general treasurer
6 pursuant to § 35-23-6, the office of the general treasurer shall have the power and authority to do
7 the following:

8 (1) Cause the retirement savings program or arrangements established under the program
9 to be designed, established, and operated, in a manner consistent with all of the following:

10 (i) In accordance with best practices for retirement savings vehicles;

11 (ii) To encourage participation, saving, and sound investment practices; and

12 (iii) With simplicity, ease of administration for participating employers, and portability of
13 benefits;

14 (2) Disseminate educational information designed to educate participants about the benefits
15 of planning and saving for retirement and information to help them decide the level of RISavers
16 retirement savings program participation and savings strategies that may be appropriate for them;

17 (3) Disseminate information concerning state and federal tax credits available to small
18 business owners for allowing their employees to participate in the program, and any relevant state
19 or federal tax credits available for participating employees;

20 (4) Submit progress and status reports to participating employees;

21 (5) If necessary, determine the eligibility of an employer, employee, or other individual to
22 participate in the program;

23 (6) Evaluate and establish the process by which an eligible employee of an eligible or
24 optional employer is able to contribute a portion of their salary or wages to the program for
25 automatic deposit of those contributions and the participating employer provides a payroll deposit
26 retirement savings arrangement to forward the employee contribution and related information to
27 the program or its agents. This evaluation and process may include, but is not limited to, financial
28 services companies and third-party administrators with the capability to receive and process
29 employee information and contributions for payroll deposit retirement savings arrangements or
30 other arrangements authorized by this chapter;

31 (7) Design and establish the process for the enrollment of program participants;

32 (8) Allow participating employers to use the program to remit employees' contributions to
33 their IRAs on their employees' behalf; and

34 (9) Evaluate and establish the process by which an employee of an optional employer may

1 enroll in and make contributions to the program.

2 **35-23-8. Disclosure of information.**

3 (a) Prior to opening the RISavers retirement savings program for enrollment, the office of
4 the general treasurer shall design and disseminate to employers an employee information packet
5 that shall also be made available in an electronic format. The packet shall include background
6 information on the program and appropriate disclosures for employees.

7 (b) The disclosure form shall include, but not be limited to, all of the following:

8 (1) The benefits and risks associated with making contributions to the program;

9 (2) The mechanics of how to make contributions to the program;

10 (3) How to opt out of the program;

11 (4) The process for withdrawal of retirement savings; and

12 (5) How to obtain additional information on the program.

13 (c) In addition, the disclosure form shall clearly articulate the following:

14 (1) Employees seeking financial advice should contact financial advisors in that employers
15 do not provide financial advice, that employees are not to contact their employers for financial
16 advice, and that employers are not liable for employee investment decisions;

17 (2) This retirement program is not sponsored by the employer, and therefore, the employer
18 is not responsible for the program or liable as a program sponsor; and

19 (3) The program fund is not guaranteed by the state.

20 (d) The disclosure form shall include a method for the employee to acknowledge that the
21 employee has read all of the disclosures and understands their content.

22 (e) The employee information packet shall also include an opt-out form for an eligible
23 employee to note their decision to opt out of participation in the program. The opt-out form shall
24 be simple and concise and drafted in a manner that the office of the general treasurer deems
25 necessary to appropriately evidence the employee's understanding that they are choosing not to
26 automatically deduct earnings to save for retirement.

27 (f) The employee information packet with the disclosure and opt-out forms shall be made
28 available to eligible employees by the RISavers retirement savings program and supplied to
29 employees no later than one hundred twenty (120) days after hiring. All new employees shall
30 review the packet and acknowledge having received it.

31 (g) The employee information packet with the disclosure and opt-out forms shall be
32 supplied to existing employees when the program is initially launched for a participating employer.

33 **35-23-9. Employer participation.**

34 (a) After the office of the general treasurer opens the RISavers retirement savings program

1 for enrollment, eligible employers shall have a payroll deposit retirement savings arrangement to
2 allow employee participation in the program under the terms and conditions prescribed by the office
3 of the general treasurer.

4 (b) Within twelve (12) months after the office of the general treasurer opens the program
5 for enrollment, eligible employers with more than one hundred (100) eligible employees and that
6 do not offer a retirement savings program pursuant to subsection (g) of this section shall have a
7 payroll deposit retirement savings arrangement to allow employee participation in the program.

8 (c) Within twenty-four (24) months after the office of the general treasurer opens the
9 program for enrollment, eligible employers with more than fifty (50) eligible employees and that
10 do not offer a retirement savings program pursuant to subsection (g) of this section shall have a
11 payroll deposit retirement savings arrangement to allow employee participation in the program.

12 (d) Within thirty-six (36) months after the office of the general treasurer opens the
13 program for enrollment, all other eligible employers that do not offer a retirement savings program
14 pursuant to subsection (g) of this section shall have a payroll deposit retirement savings
15 arrangement to allow employee participation in the program.

16 (e) The office of the general treasurer, in its discretion, may extend the time limits defined
17 in subsections (b) through (d) of this section.

18 (f)(1) Each eligible employee shall be enrolled in the program unless the employee elects
19 not to participate in the program. An eligible employee may elect to opt out of the program at any
20 time by making a notation on the opt-out form.

21 (2) Following initial implementation of the program pursuant to this section, at least once
22 every year, the office of the general treasurer shall designate an open enrollment period during
23 which eligible employees that previously opted-out of the program may enroll in the program.

24 (3) An employee who elects to opt out of the program who subsequently elects to
25 participate through the employer's payroll deposit retirement savings arrangement may enroll at
26 any time.

27 (g)(1) An employer that provides an employer-sponsored retirement plan, such as a defined
28 benefit plan or a 401(k), 403(b), 457(b), simplified employee pension (SEP) plan, or savings
29 incentive match plan for employees (SIMPLE) plan, or that offers an automatic enrollment payroll
30 deduction IRA, shall be exempt from the requirements of the RISavers retirement savings program,
31 if the plan or IRA qualifies for favorable federal income tax treatment under the federal Internal
32 Revenue Code.

33 (2) An employer shall retain the option at all times to set up and offer a tax-qualified
34 retirement plan, instead of facilitating employee participation in the RISavers retirement savings

1 program.

2 (h)(1) Following initial implementation of the program pursuant to this section, and at least
3 once every year, the general treasurer shall designate an open enrollment period during which
4 optional employers may enroll in the program.

5 (2) An optional employer that enrolls in the program may elect to opt out of the program
6 upon thirty (30) days' notice provided to employees and to the office of the general treasurer.

7 (i) By regulation, the office of the general treasurer may set a default contribution rate,
8 unless otherwise specified by the employee. Employees shall have the ability to change their
9 contribution rate at any time with thirty (30) days' notice provided to the office of the general
10 treasurer.

11 **35-23-10. Employer liability protection.**

12 (a) Employers shall not have any liability for an employee's decision to participate in, or
13 opt out of, the RISavers retirement savings program, or for the investment decisions of employees
14 whose assets are deposited in the program.

15 (b) Employers shall not be a fiduciary, or considered to be a fiduciary, over the Rhode
16 Island secure choice retirement savings program. The program is a state-administered program, not
17 an employer-sponsored program. If the program is subsequently found to be preempted by any
18 federal law or regulation, employers shall not be liable as program sponsors. An employer shall not
19 bear responsibility for the administration, investment, or investment performance of the program.
20 An employer shall not be liable with regard to investment returns, program design, and benefits
21 paid to program participants.

22 (c) An employer shall not have civil liability, and no cause of action shall arise against an
23 employer, for acting pursuant to the regulations prescribed by the office of the general treasurer
24 defining the roles and responsibilities of employers that have a payroll deposit retirement savings
25 arrangement to allow employee participation in the program.

26 **35-23-11. State immunity.**

27 The state shall not have any liability for the payment of the retirement savings benefit
28 earned by program participants pursuant to this chapter. The state, and any of the funds of the state,
29 shall have no obligation for payment of the benefits arising from this chapter.

30 **35-23-12. Annual audited financial report.**

31 (a) The office of the general treasurer shall submit, no later than December 31 annually, an
32 audited financial report, prepared in accordance with generally accepted accounting principles, on
33 the operations of the Rhode Island secure choice retirement savings program to the governor, and
34 the finance committees of the house and senate. The annual audit shall be made by an independent

1 certified public accountant and shall include, but not be limited to, direct and indirect costs
2 attributable to the use of outside consultants, independent contractors, and any other persons who
3 are not state employees.

4 (b) The annual audit shall be supplemented by the following information prepared by the
5 office of the general treasurer:

6 (1) Any studies or evaluations prepared in the preceding year;

7 (2) A summary of the benefits provided by the program including the number of
8 participants in the program; and

9 (3) Any other information that is relevant in order to make a full, fair, and effective
10 disclosure of the operations of the Rhode Island secure choice retirement savings program.

11 **35-23-13. Required favorable federal tax treatment.**

12 (a) The office of the general treasurer shall not implement the program if the IRA
13 arrangements offered fail to qualify for the favorable federal income tax treatment ordinarily
14 accorded to IRAs under the Internal Revenue Code, or if it is determined that the program is an
15 employee benefit plan under the federal Employee Retirement Income Security Act.

16 (b) Prior to opening the program for enrollment, the office of the general treasurer shall
17 report to the governor and the finance committees of the house and senate the specific date on
18 which the program will start to enroll program participants and that the following prerequisites and
19 requirements for the program have been met:

20 (1) The program is structured in a manner to keep the program from being classified as an
21 employee benefit plan subject to the federal Employee Retirement Income Security Act;

22 (2) The payroll deduction IRA arrangements offered by the program qualify for the
23 favorable federal income tax treatment ordinarily accorded to IRA arrangements under the Internal
24 Revenue Code;

25 (3) The office of the general treasurer has defined in regulation the roles and responsibilities
26 of employers in a manner to keep the program from being classified as an employee benefit plan
27 subject to the federal Employee Retirement Income Security Act; and

28 (4) The office of the general treasurer has adopted a third-party administrator operational
29 model that limits employer interaction and transactions with the employee to the extent feasible.

30 **35-23-14. Duties of the office of the general treasurer.**

31 The office of the general treasurer, commission, and the program administrator and staff,
32 including, contract administrators and consultants, shall discharge their duties as fiduciaries with
33 respect to the program for the exclusive purposes of providing benefits to program participants and
34 defraying reasonable expenses of administering the program.

1 **35-23-15. Penalties.**

2 (a) The office of the general treasurer shall have the power and duties necessary to
3 administer the enforcement of employer compliance with this chapter, including the ability to
4 impose penalties.

5 (b)(1) The office of the general treasurer shall issue a notice of noncompliance to each
6 employer that fails to allow its eligible employees to participate in the Rhode Island secure choice
7 savings retirement program pursuant to this title.

8 (2) Each eligible employer that, without good cause, fails to allow its eligible employees
9 to participate in the program within thirty (30) days from the date the notice of penalty was issued,
10 shall be subject to a penalty of two hundred fifty dollars (\$250) per eligible employee. Proceeds of
11 such penalties, after deducting enforcement expenses, shall be deposited for the benefit of the
12 program.

13 (c) The department of labor and training shall assist the office of the general treasurer in
14 its enforcement of this chapter.

15 **35-23-16. Rules and regulations.**

16 (a) The office of the general treasurer may adopt rules and regulations to implement this
17 chapter.

18 (b) The tax administrator, in consultation with the office of the general treasurer, shall
19 adopt rules and regulations regarding the reporting and the deferral of taxes in accordance with the
20 provisions of this chapter.

21 **35-23-17. Effect on benefit means test.**

22 A payroll deposit IRA arrangement offered pursuant to the RISavers retirement savings
23 program shall have the same status as, and be treated consistently with, any other IRA for the
24 purpose of determining eligibility or benefit level for a program that uses a means test.

25 **35-23-18. Liberal Construction.**

26 This chapter shall be construed liberally in order to effectuate its purpose. The purposes of
27 this chapter and all of its provisions with respect to the powers granted shall be broadly interpreted
28 to effectuate that intent and purposes and not as to any limitation of powers.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC FINANCE -- RHODE ISLAND RETIREMENT SAVINGS
PROGRAM ACT

1 This act would establish the Rhode Island secure choice retirement savings program
2 administered by the general treasurer, which shall promote greater retirement savings for Rhode
3 Island private sector employees in a convenient, voluntary, low-cost, and portable manner. The
4 general treasurer would be charged with collecting contributions through payroll deductions and
5 investing these funds in accordance with best practice for retirement savings vehicles. The general
6 treasurer would also be responsible for encouraging employee participation and ensuring ease of
7 administration for participating employers and portability of retirement benefits for participating
8 employees. The act would become effective for all eligible employers within thirty-six (36) months
9 of the general treasurer opening the program enrollment following a phased implementation period.

10 This act would take effect upon passage.

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