

**SENATE . . . . . No. 1698**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Joan B. Lovely*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the SMART plan.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joan B. Lovely</i>	<i>Second Essex</i>	
<i>Deborah B. Goldberg, Treasurer and Receiver General</i>	<i>Treasurer</i>	<i>1/20/2023</i>

**SENATE . . . . . No. 1698**

By Ms. Lovely, a petition (accompanied by bill, Senate, No. 1698) of Joan B. Lovely and Deborah B. Goldberg, Treasurer and Receiver General for legislation relative to the SMART plan. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1746 OF 2021-2022.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
\_\_\_\_\_

An Act relative to the SMART plan.

*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. Section 64 of chapter 29 of the General Laws, as appearing in the 2020  
2 Official Edition, is hereby amended by striking, in line 31, the words “independent contractors”  
3 and inserting in place thereof the following words:-

4 contracted employees

5 SECTION 2. Said section 64 of said chapter 29 of the General Laws, as so appearing, is  
6 hereby further amended by inserting at the end thereof the following paragraphs:-

7 The state treasurer, on behalf of the deferred compensation program, may adopt annual  
8 budgets and supplemental budgets as necessary. Said budgets may include salaries for treasury  
9 employees tasked with working on and/or administering the deferred compensation program, and

10 said budgets may be funded from the administrative expense account of the deferred  
11 compensation program. Any such treasury employee whose compensation is sourced from the  
12 deferred compensation program shall be an “employee” as that term is defined in section 1 of  
13 chapter 32 and shall be a member of the Massachusetts state employees’ retirement system.

14 The state treasurer, on behalf of the commonwealth, may establish an automatic  
15 enrollment feature within the deferred compensation program. The automatic enrollment feature  
16 does not require advance authorization by an employee, and is hereby deemed to be an exception  
17 to the provisions of the Massachusetts Wage Act or any other state law requiring employee  
18 authorization for a payroll deduction or any similar ordinance of a governmental body. The  
19 details of the automatic enrollment feature shall be set forth in the deferred compensation plan  
20 document and shall include:

21 (a) A provision that automatic enrollment shall apply only to new employees of the  
22 commonwealth, meaning employees hired on or after June 1, 2022; but that for any  
23 commonwealth agencies or departments that have Code section 403(b) eligible employees,  
24 automatic enrollment shall only apply at the commonwealth agency’s or department’s discretion  
25 and affirmative election;

26 (b) A provision that automatic enrollment shall apply only to new employees of a  
27 “governmental body”, as defined in section 64B of chapter 29 of these general laws, if the  
28 governmental body elects to implement the automatic enrollment feature for its employees;

29 (c) A provision that automatic enrollment may not require more than the IRS safe harbor  
30 maximum deferral percentage;

31 (d) A provision that the amount of compensation deferred by an automatically-enrolled  
32 employee shall automatically increase by a specified amount each year unless the participating  
33 employee elects not to participate in auto escalation or elects to defer a different amount than  
34 specified;

35 (e) A provision that an employee who is automatically enrolled shall have as long as  
36 ninety days to discontinue participation in the plan;

37 (f) A provision that an automatically-enrolled employee who discontinues participation in  
38 the plan within ninety days shall receive a refund of their account as soon as practicable after  
39 discontinuing participation;

40 (g) A provision that the plan shall specify a qualified default investment option to receive  
41 contributions by any automatically-enrolled employee who does not choose an investment  
42 alternative to receive the employee's contributions; and

43 (h) A provision that the plan shall adhere to notice requirements to automatically-enrolled  
44 participants in accordance with the Internal Revenue Code and applicable IRS Rulings.

45 SECTION 3. Section 64B of chapter 29 of the General Laws, as appearing in the 2020  
46 Edition, is hereby amended by inserting between the third and fourth paragraphs the following  
47 paragraph:-

48 The treasurer or, if there is no treasurer, the chief financial officer by whatever name that  
49 person is called, on behalf of a governmental body, may, at its own election, implement an  
50 automatic enrollment feature within its deferred compensation program established pursuant to  
51 this section 64B, chapter 29. The automatic enrollment feature does not require advance

52 authorization by an employee and is hereby deemed to be an exception to the provisions of the  
53 Massachusetts Wage Act or any other state law requiring employee authorization for a payroll  
54 deduction or any similar ordinance of a governmental body. Subject to the election of each  
55 governmental body, any such auto enrollment feature permitted as a part of a governmental  
56 body's deferred compensation program shall only apply to new employees of a governmental  
57 body hired on or after June 1, 2024 and such deferred compensation program will be required to  
58 include the specifications for auto enrollment detailed in subsections (b)-(h) of section 64 of  
59 chapter 29 of the General Laws.