



Senate

General Assembly

File No. 90

February Session, 2024

Substitute Senate Bill No. 136

Senate, March 25, 2024

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT MAKING CHANGES TO THE CONNECTICUT RETIREMENT SECURITY PROGRAM STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-416 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2024*):

3 As used in this section, section 31-71e, [and] sections 31-417 to [31-
4 427] 31-426, inclusive, as amended by this act, and section 9 of this act:

5 (1) "Board" means the Connecticut Retirement Security Advisory
6 Board established pursuant to section 31-417, as amended by this act;

7 (2) "Contribution level" means (A) the contribution rate selected by
8 the participant that may be expressed as (i) a percentage of the
9 participant's taxable wages as is required to be reported under Sections
10 6041 and 6051 of the Internal Revenue Code of 1986, or any subsequent
11 corresponding internal revenue code of the United States, as amended
12 from time to time, or (ii) a dollar amount up to the maximum deductible

13 amount for the participant's taxable year under Section 219(b)(1) of the
14 Internal Revenue Code of 1986, or any subsequent corresponding
15 internal revenue code of the United States, as amended from time to
16 time; or (B) in the absence of an affirmative election by the participant,
17 (i) for participants enrolled in the program prior to July 1, 2024, three
18 per cent of the participant's taxable wages as is required to be reported
19 under Sections 6041 and 6051 of the Internal Revenue Code of 1986, or
20 any subsequent corresponding internal revenue code of the United
21 States, as amended from time to time, or (ii) for participants enrolled in
22 the program on or after July 1, 2024, five per cent of such participant's
23 taxable wages as is required to be reported under Sections 6041 and 6051
24 of the Internal Revenue Code of 1986, or any subsequent corresponding
25 internal revenue code of the United States, as amended from time to
26 time. The contribution level of a participant who customarily and
27 regularly receives gratuities in conjunction with his or her employment
28 shall be a percentage of such participant's wages as is required to be
29 reported under Sections 6041 and 6051 of the Internal Revenue Code of
30 1986, or any subsequent corresponding internal revenue code of the
31 United States, as amended from time to time;

32 (3) "Covered employee" means an individual (A) who has been
33 employed by a qualified employer for a period of not less than [one
34 hundred twenty] thirty days, (B) who is nineteen years of age or older,
35 (C) who performs services within the state for purposes of section 31-
36 222, and (D) whose service or employment is not excluded under the
37 provisions of subdivision (5) of subsection (a) of section 31-222;

38 (4) "Participant" means any individual participating in the program;

39 (5) "Program" means the Connecticut Retirement Security Program
40 established pursuant to section 31-418, as amended by this act;

41 (6) "Qualified employer" means any person, corporation, limited
42 liability company, firm, partnership, voluntary association, joint stock
43 association or other entity doing business in the state during the
44 calendar year, whether for profit or not for profit, that employed on
45 October first of the preceding calendar year five or more individuals in

46 the state and has paid not less than five of such individuals taxable
47 wages of not less than five thousand dollars in the preceding calendar
48 year. "Qualified employer" does not include: (A) The federal
49 government, (B) the state or any political subdivision thereof, (C) any
50 municipality, unit of a municipality or municipal housing authority, (D)
51 an employer employing only individuals whose services are excluded
52 under subdivision (5) of subsection (a) of section 31-222, or (E) an
53 employer that was not in existence at all times during the current
54 calendar year and the preceding calendar year;

55 (7) "Individual retirement account" means a Roth IRA;

56 (8) "Roth IRA" means an account described in Section 408A of the
57 Internal Revenue Code of 1986, or any subsequent corresponding
58 internal revenue code of the United States, as amended from time to
59 time;

60 (9) "Normal retirement age" means the age specified in Section 408A
61 of the Internal Revenue Code of 1986, or any subsequent corresponding
62 internal revenue code of the United States, as amended from time to
63 time, when an individual may withdraw all funds without penalty;

64 (10) "Vendor" means (A) a federally regulated retirement plan
65 sponsor conducting business in the state, including, but not limited to,
66 a federally regulated investment company or an insurance company, or
67 (B) a company conducting business in the state to (i) provide ancillary
68 services, including, but not limited to, technological, payroll or
69 recordkeeping services, and (ii) offer retirement plans or payroll deposit
70 individual retirement account arrangements using products of
71 regulated retirement plan sponsors. "Vendor" does not include
72 individual registered representatives, brokers, financial planners or
73 agents; and

74 (11) "Fee" means investment management charges, administrative
75 charges, investment advice charges, trading fees, marketing and sales
76 fees, revenue sharing, broker fees and other costs necessary to
77 administer the program.

78 Sec. 2. Subsections (f) to (i), inclusive, of section 31-417 of the 2024
79 supplement to the general statutes are repealed and the following is
80 substituted in lieu thereof (*Effective July 1, 2024*):

81 (f) [Eight] A majority of the members of the board shall constitute a
82 quorum. Each member shall be entitled to one vote on the board.

83 (g) (1) No member of the board or any officer, agent or employee of
84 the Comptroller administering the program shall, directly or indirectly,
85 have any financial interest in any corporation, business trust, estate,
86 trust, partnership or association, two or more persons having a joint or
87 common interest, or any other legal or commercial entity contracting
88 with the program.

89 (2) Notwithstanding the provisions of subdivision (1) of this
90 subsection or any other section of the general statutes, it shall not be a
91 conflict of interest or a violation of the provisions of said subdivision or
92 any other section of the general statutes for a trustee, director, officer or
93 employee of a bank, investment advisor, investment company or
94 investment banking firm, or a person having the required favorable
95 reputation for skill, knowledge and experience in retirement savings, to
96 serve as a member of the board, provided, in each case to which the
97 provisions of this subdivision are applicable, such trustee, director,
98 officer or employee of such a firm abstains from discussion,
99 deliberation, action and vote by the board in specific respect to any
100 undertaking pursuant to this section, section 31-71e, sections 31-418 to
101 [31-427] 31-426, inclusive, as amended by this act, in which such firm
102 has a direct interest separate from the interests of all similar firms
103 generally.

104 (h) The board, on behalf of the authority, and for the purpose of
105 implementing the Connecticut Retirement Security Program established
106 pursuant to section 31-418, as amended by this act, shall advise the
107 Comptroller on matters including:

108 (1) Using surplus funds to the extent authorized under sections 31-
109 71e, 31-71j, 31-416 to [31-427] 31-426, inclusive, as amended by this act,

110 and 31-429, as amended by this act, or other provisions of the general
111 statutes; and

112 (2) Making modifications to the program that the board deems
113 necessary to implement the provisions of section 31-71e, sections 31-417
114 to [31-427] 31-426, inclusive, as amended by this act, consistent with
115 federal rules and regulations in order to ensure that the program meets
116 all criteria for federal tax-deferral or tax-exempt benefits, and to prevent
117 the program from being treated as an employee benefit plan under the
118 federal Employee Retirement Income Security Act of 1974, as amended
119 from time to time.

120 (i) Any money expended from the General Fund for the purpose of
121 administering the Connecticut Retirement Security Program shall be
122 reimbursed to the General Fund according to a plan established and
123 agreed upon by both the Secretary of the Office of Policy and
124 Management and the Comptroller. Such plan shall (1) include a
125 schedule for reimbursement of any money expended from the General
126 Fund to the program, and (2) incorporate any previously agreed upon
127 terms between the Comptroller and the Treasurer to pay back the
128 General Fund for any request for an advance made pursuant to section
129 31-418a of the general statutes, revision of 1958, revised to January 1,
130 2021. Payments to reimburse the General Fund shall continue according
131 to the terms of such plan until all money expended from the General
132 Fund to the program is reimbursed. The program may pay any unpaid
133 amounts earlier than the established repayment plan requires.

134 (j) No member of the board shall be personally liable for the debts,
135 obligations or liabilities of the Connecticut Retirement Security Program
136 as provided in this chapter. The Comptroller shall indemnify and hold
137 harmless any individual who acts pursuant to chapter 574 in such
138 individual's capacity as an advisory board member.

139 Sec. 3. Section 31-418 of the general statutes is repealed and the
140 following is substituted in lieu thereof (*Effective July 1, 2024*):

141 (a) There is established the Connecticut Retirement Security Program,

142 the purpose of which shall be to promote and enhance retirement
143 savings for private sector employees in the state, to be administered by
144 the Comptroller. The office of the Comptroller shall constitute a
145 successor agency to the Connecticut Retirement Security Authority for
146 the purposes of administering the Connecticut Retirement Security
147 Program, in accordance with subsections (a), (b), (c), (d) and (f) of
148 sections 4-38d and 4-38e. The Comptroller in consultation with the
149 board, may:

150 (1) Establish criteria and guidelines for the program to offer qualified
151 retirement investment choices. Such criteria and guidelines shall
152 establish a cap on total annual fees and shall provide participants with
153 information regarding each retirement investment choice's historical
154 investment performance;

155 (2) Receive and invest moneys in the program in any instruments,
156 obligations, securities or property in accordance with section 31-423, as
157 amended by this act;

158 (3) Contract with financial institutions, legal counsel or other
159 organizations offering or servicing retirement programs. Such
160 institutions, legal counsel and organizations shall serve at the pleasure
161 of the Comptroller and perform duties as directed by the Comptroller.
162 The Comptroller may obtain such additional legal advice and assistance
163 as the Comptroller deems necessary in order to administer the program.
164 The Comptroller may require that each participant be charged a fee to
165 defray the costs of the program. The amount and method of collection
166 of such fee shall be determined by the Comptroller. No employer shall
167 be required to fund or be responsible for collecting fees from plan
168 participants;

169 (4) Charge and equitably apportion among participants the
170 administrative costs and expenses incurred in the exercise of the
171 Comptroller's powers and duties as granted by this section;

172 (5) Borrow working capital funds and other funds as may be
173 necessary for the start-up and continuing operation of the program,

174 provided such funds are borrowed in the name of the program only.
175 Such borrowings shall be payable solely from revenues of the program;

176 (6) Do all things necessary or convenient to carry out the provisions
177 of section 31-71e, and sections 31-417 to [31-427] 31-426, inclusive, as
178 amended by this act; [and]

179 (7) Establish an administrative process by which participants,
180 potential participants and employees may submit grievances,
181 complaints and appeals to the Comptroller and have such grievances,
182 complaints and appeals heard and addressed by the Comptroller; and

183 (8) Establish an annual automatic increase in contribution level for
184 participants who have not made an affirmative election. Such annual
185 increase shall be not more than one per cent of such participants' current
186 contribution level up to a total maximum of ten per cent as permitted
187 under the Internal Revenue Code of 1986, or any subsequent
188 corresponding internal revenue code of the United States, as amended
189 from time to time.

190 (b) The Comptroller shall enter into memoranda of understanding
191 with the Labor Department and other state agencies regarding (1) the
192 gathering or dissemination of information necessary for the operations
193 of the program, subject to such obligations of confidentiality as may be
194 agreed or required by law, (2) the sharing of costs incurred pursuant to
195 the gathering and dissemination of such information, and (3) the
196 reimbursement of costs for any enforcement activities conducted
197 pursuant to section 31-425, as amended by this act. Each state agency
198 may also enter into such memoranda of understanding.

199 (c) The Comptroller may, in administering the program, enter into an
200 intergovernmental agreement, a cooperative agreement or reciprocal
201 agreement with another state or states, the District of Columbia, Puerto
202 Rico, the United States Virgin Islands or any territory regarding areas of
203 collaboration, including, but not limited to, data collection, shared
204 program administration and financial services, pooled investments of
205 assets, marketing and outreach support, program evaluation and

206 research, participant privacy and any other area of collaboration.

207 [(c)] (d) The Comptroller may adopt regulations in accordance with
208 the provisions of chapter 54 to implement the provisions of this chapter,
209 including, but not limited to, regulations concerning the protection of
210 program participants' personal and confidential information.

211 Sec. 4. Subsection (a) of section 31-421 of the general statutes is
212 repealed and the following is substituted in lieu thereof (*Effective July 1,*
213 *2024*):

214 (a) The Comptroller, in conducting the business of the program, shall
215 act: (1) With the care, skill, prudence and diligence under the
216 circumstances then prevailing that a prudent person acting in a like
217 capacity and familiar with such matters would use in the conduct of an
218 enterprise of like character and with like aims; (2) solely in the interests
219 of the program's participants and beneficiaries; (3) for the exclusive
220 purposes of providing benefits to participants and beneficiaries and
221 defraying reasonable expenses of administering the program; and (4) in
222 accordance with the provisions of section 31-71e, and sections 31-417 to
223 [31-427] 31-426, inclusive, as amended by this act, and any other
224 applicable sections of the general statutes.

225 Sec. 5. Subdivision (5) of subsection (a) of section 31-422 of the general
226 statutes is repealed and the following is substituted in lieu thereof
227 (*Effective July 1, 2024*):

228 (5) The Comptroller may defer the effective date of the program, in
229 whole or in part, and for particular categories of employers, as the
230 Comptroller deems necessary to effectuate the purposes of section 31-
231 71e, and sections 31-417 to [31-427] 31-426, inclusive, as amended by this
232 act, in a manner that minimizes the disruption and burdens that may
233 exist for any qualified employer. The Comptroller shall provide notice
234 of any deferment of the effective date of the program to the chairpersons
235 and ranking members of the joint standing committee of the General
236 Assembly having cognizance of matters relating to labor not later than
237 seven days after the Comptroller has deemed such deferment necessary.

238 Such notice shall include the categories of employers affected, the
239 purpose for which the deferment was granted and the new effective date
240 of the program.

241 Sec. 6. Section 31-423 of the general statutes is repealed and the
242 following is substituted in lieu thereof (*Effective July 1, 2024*):

243 [The] (a) Except as otherwise provided in subsection (b) of this
244 section, the Comptroller shall provide for each participant's account to
245 be invested in (1) an age-appropriate target date fund, or (2) other
246 investment vehicles the Comptroller may prescribe if affirmatively
247 selected by the participant.

248 (b) If no affirmative selection of an investment vehicle is made by a
249 participant, the Comptroller may invest such participant's contributions
250 in a capital preservation investment fund, including, but not limited to,
251 a money market fund or other short-term investment fund, for not more
252 than sixty calendar days after the first contribution is made to such
253 participant's account. If at the end of such sixty calendar days such
254 participant has made no affirmative selection of an alternative
255 investment vehicle, the Comptroller shall transfer and invest such
256 participant's contributions into an age-appropriate target date fund
257 pursuant to subdivision (1) of subsection (a) of this section. A
258 participant may affirmatively select an alternative investment vehicle as
259 may be prescribed by the Comptroller at any time during or after such
260 sixty-day period. If a participant designates an alternative investment
261 vehicle during or after such sixty-day period, the Comptroller shall
262 deposit such participant's contributions into such vehicle pursuant to
263 subdivision (2) of subsection (a) of this section.

264 Sec. 7. Section 31-425 of the general statutes is repealed and the
265 following is substituted in lieu thereof (*Effective July 1, 2024*):

266 (a) The Attorney General may investigate any violation of section 31-
267 421, as amended by this act. If the Attorney General finds that any
268 member of the Connecticut Retirement Security Advisory Board, or any
269 agent engaged or appointed by the Comptroller or the board has

270 violated or is violating any provision of said section, the Attorney
271 General may bring a civil action in the superior court for the judicial
272 district of Hartford under this section in the name of the state against
273 such member or agent. The remedies available to a court in any such
274 action shall be limited to injunctive relief. Nothing in this section shall
275 be construed to create a private right of action.

276 (b) If a qualified employer fails to remit contributions to the program
277 in the time period specified in subsection (e) of section 31-422, such
278 failure to remit such contributions shall be a violation of section 31-71e.

279 (c) If a qualified employer (1) fails to enroll [a covered employee] such
280 qualified employer's covered employees, as required under subsection
281 (a) of section 31-422, as amended by this act, [such covered employee,
282 the Labor Commissioner or the Comptroller, may bring a civil action to
283 require the qualified employer to enroll the covered employee and shall
284 recover such costs and reasonable attorney's fees as may be allowed by
285 the court] or (2) fails to remit contributions to the program, as required
286 under subsection (e) of section 31-422, the Comptroller shall send a
287 notice of noncompliance to such qualified employer. The Comptroller
288 shall send not less than two notices of noncompliance followed by a final
289 notice of noncompliance. Each year a qualified employer is found to be
290 noncompliant for ninety or more calendar days after service of such
291 final notice of noncompliance, such employer may be assessed a civil
292 penalty by the Comptroller of (A) not more than five hundred dollars
293 for a qualified employer that employs not fewer than five and not more
294 than twenty-four employees, (B) not more than one thousand dollars for
295 a qualified employer that employs not fewer than twenty-five and not
296 more than ninety-nine employees, and (C) not more than one thousand
297 five hundred dollars for a qualified employer that employs one hundred
298 or more employees.

299 (d) The Comptroller may adopt regulations in accordance with the
300 provisions of chapter 54 to implement the provisions of this section.

301 Sec. 8. Subsection (c) of section 31-429 of the general statutes is
302 repealed and the following is substituted in lieu thereof (*Effective July 1,*

303 2024):

304 (c) The provisions of this section, and sections 31-71e, 31-71j and 31-
305 416 to [31-427] 31-426, inclusive, as amended by this act, shall be
306 severable, and, if any of their provisions are held to be unconstitutional
307 or invalid, the validity of the remaining provisions of said sections will
308 not be affected.

309 Sec. 9. (NEW) (*Effective July 1, 2024*) (a) No qualified employer shall
310 be subject to civil liability for (1) an employee's decision to participate,
311 or to not participate, in the Connecticut Retirement Security Program,
312 or (2) the investment decisions of the board or of any enrollee of the
313 program.

314 (b) No qualified employer shall be (1) a fiduciary, or be considered to
315 be a fiduciary, over the program, (2) responsible for the administration,
316 investment or investment performance of the program, or (3) subject to
317 civil liability with regard to investment returns, program design and
318 benefits paid to program participants.

319 Sec. 10. Section 31-427 of the general statutes is repealed. (*Effective*
320 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2024</i>	31-416
Sec. 2	<i>July 1, 2024</i>	31-417(f) to (i)
Sec. 3	<i>July 1, 2024</i>	31-418
Sec. 4	<i>July 1, 2024</i>	31-421(a)
Sec. 5	<i>July 1, 2024</i>	31-422(a)(5)
Sec. 6	<i>July 1, 2024</i>	31-423
Sec. 7	<i>July 1, 2024</i>	31-425
Sec. 8	<i>July 1, 2024</i>	31-429(c)
Sec. 9	<i>July 1, 2024</i>	New section
Sec. 10	<i>from passage</i>	Repealer section

Statement of Legislative Commissioners:

Section 1(2)(B)(i) was rewritten for consistency; in Section 2(j) "subject to civil liabilities" was changed to "personally liable" for statutory consistency and "in such capacity" was changed to "in such individual's capacity" for clarity; in Section 3(a)(3) "Such institutions or organizations" was changed to "Such institutions, legal counsel and organizations" for consistency with other provisions of the Subdiv. and Section 3(a)(8) was rewritten for clarity; Section 6 was rewritten for clarity; in Section 7(c)(2) "not less than ninety" was changed to "ninety or more" for consistency with standard drafting conventions and in Subparas. (A) and (B) references to "not less than" were changed to "not fewer than" for clarity.

LAB *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 25 \$	FY 26 \$
Comptroller	GF - Potential Savings	Potential	Potential
Comptroller	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill, which makes changes to the Connecticut Retirement Security Program statutes, results in potential savings from a reduction in administrative costs, and minimal revenue gain from compliance fees beginning in FY 25. Most of the changes are technical adjustments and result in no fiscal impact.

The bill results in potential savings through decreased administration costs by authorizing the State Comptroller to collaborate with other states regarding the administration and pooling of assets for the Connecticut Retirement Security Program and removing the provision necessitating the Comptroller to maintain an informational website.

The bill removes the provision that allows a covered employee, the Labor Commissioner, or the State Comptroller to bring civil action against an employer that fails to enroll a covered employee in the Retirement Security Plan, and instead allows the Office of the State Comptroller to levy a fine in the amount of \$500, \$1,000, or \$1,500 dependent on their number of employees. This results in a potential

revenue gain beginning in FY 25 to the extent penalties are imposed on noncompliant employers.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Office of the State Comptroller

OLR Bill Analysis**SB 136*****AN ACT MAKING CHANGES TO THE CONNECTICUT RETIREMENT SECURITY PROGRAM STATUTES.*****SUMMARY**

This bill makes various changes to the Connecticut Retirement Security Program, a program the Office of the State Comptroller administers to establish a retirement program with Roth individual retirement accounts (IRAs) for eligible private-sector employees. Among other things, the bill:

1. reduces how long an employee must work for their employer to be a “covered employee” under the program;
2. increases the default contribution level from 3% to 5% for participants who enroll in the program on or after July 1, 2024, but do not affirmatively pick a contribution level for themselves;
3. allows the comptroller to (a) set automatic annual increases to the default contribution level and (b) invest a participant’s contributions in a capital preservation investment fund for up to 60 days when a participant does not affirmatively select an investment vehicle;
4. creates a notice requirement and financial penalty for noncompliant employers, rather than allowing the labor commissioner or comptroller to sue them, as current law does;
5. allows the comptroller to adopt regulations to implement the provisions on a notice requirement and financial penalty for noncompliant employers (§ 7);

6. gives certain liability protections to the program’s advisory board members and employers covered by the program;
7. expands the comptroller’s powers in administering the program to, among other things, allow him to enter into certain contracts and intergovernmental agreements;
8. repeals a requirement for the comptroller to set up and maintain a website for qualified employers and vendors (§ 10); and
9. makes various conforming changes (e.g., §§ 4, 5 & 8).

EFFECTIVE DATE: July 1, 2024, except that the repealed provision is effective upon passage.

§ 1 — COVERED EMPLOYEES

The bill reduces, from 120 days to 30 days, how long an employee must work for their employer to be a “covered employee” under the program. By law, employers covered by the program must give employees certain information about the program within 30 days after they become a “covered employee,” and automatically enroll them in the program within 60 days after that. Covered employees may opt out of the program by selecting a contribution level of zero.

§§ 1, 3 & 6 — DEFAULT CONTRIBUTION LEVELS AND INVESTMENTS

Default Contribution Levels (§ 1)

The bill increases the default contribution level for participants who enroll in the program on or after July 1, 2024. Under current law, participants must contribute 3% of their taxable wages to the program unless they affirmatively choose to contribute a different amount. The bill increases this default contribution level to 5% for participants who enroll in the program on or after July 1, 2024.

Automatic Increase to Default Contribution Levels (§ 3)

The bill allows the comptroller, in consultation with the program’s advisory board, to establish automated annual increases to the default

contribution level for participants who have not affirmatively chosen how much to contribute. Under the bill, the default contribution level cannot increase by more than 1% each year or exceed 10% in total, as allowed under federal tax law.

Default Investment Vehicle (§ 6)

Existing law requires the comptroller to have each participant's account invested in either an age-appropriate target date fund or other investment vehicles that the participant affirmatively selects. The bill further specifies what the comptroller must do if the participant does not affirmatively select an investment vehicle within 60 days. In these cases, the bill allows the comptroller to invest the participant's contributions in a capital preservation investment fund, such as a money market fund or other short-term investment fund, for up to 60 days after the participant's first contribution. If the participant has not made an affirmative selection after those 60 days, the bill requires the comptroller to transfer and invest the contributions into an age-appropriate target date fund as required under existing law. The participant may affirmatively select an alternate investment vehicle at any time during or after the 60-day period, and if he or she does so, the comptroller must deposit the contributions into that vehicle.

§ 7 — NONCOMPLIANT EMPLOYERS

Under current law, if a qualified employer (i.e., one subject to the program's requirements) fails to enroll an eligible employee in the program, either the labor commissioner or the comptroller may sue the employer to require compliance and recover costs and attorney's fees. The bill eliminates this provision and instead creates a notice requirement and financial penalty for the noncompliant employers.

More specifically, the bill requires the comptroller to send at least two notices of noncompliance, followed by a final notice of noncompliance, to any qualified employer that fails to (1) enroll its eligible employees in the program as required or (2) timely remit employee contributions to the program as required. The bill allows the comptroller to assess a civil penalty on an employer each year that the employer is found to be

noncompliant at least 90 calendar days after the final notice of noncompliance was served. The maximum amount of the civil penalty is based on the employer's number of employees, as shown in the table below.

Table: Penalty for Noncompliant Employers

<i>Number of Employees</i>	<i>Maximum Penalty</i>
5 – 24	\$500
25 – 99	\$1,000
100+	\$1,500

Under existing law, unchanged by the bill, an employer's failure to remit an employee's contributions to the program also violates the law that generally prohibits employers from withholding employee wages.

§ 2 — ADVISORY BOARD & LIABILITY INDEMNITY

By law, the Connecticut Retirement Security Advisory Board advises the comptroller on matters like using the program's surplus funds and modifying the program to meet federal tax law and regulations. The bill makes the board's quorum requirement a majority of the members, rather than eight of the board's members (by law, the board consists of 15 members).

It also protects anyone who serves on the board from personal liability for the program's debts, obligations, or liabilities, and requires the comptroller to indemnify and hold harmless anyone acting under the law as an advisory board member.

§ 9 — EMPLOYER AND LIABILITY PROTECTION

Under the bill, employers covered by the program are not:

1. liable for their employees' decisions to participate or not in the program or the board's or enrollees' investment decisions;
2. fiduciaries of the program;
3. responsible for the program's administration, investments, or investment performance; or

- 4. liable for investment returns, program design, and benefits paid to participants.

§ 3 — OTHER COMPTROLLER POWERS

Current law allows the comptroller, in consultation with the advisory board, to contract with financial institutions or other organizations offering retirement programs. The bill also (1) allows him to contract with legal counsel and to obtain additional legal advice and assistance that he needs to administer the program and (2) specifies that these institutions, organizations, and counsel serve at the comptroller’s pleasure and perform duties as he directs.

In addition, the bill allows the comptroller to enter into an intergovernmental agreement, a cooperative agreement, or reciprocal agreement on topics like data collection, shared program administration and financial services, pooled investment of assets, marketing and outreach support, program evaluation and research, participant privacy, and any other collaboration area. He may enter into these agreements with another state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 4 (03/07/2024)