

SENATE BILL NO. 135

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR WIELECHOWSKI

Introduced: 4/24/23

Referred: Labor & Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Alaska Work and Save Program; establishing the Alaska**
2 **Retirement Savings Board; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 43.23.130(a) is amended to read:

5 (a) Notwithstanding AS 43.23.200, the Department of Revenue shall prepare
6 the electronic Alaska permanent fund dividend application to allow an applicant who
7 files electronically to direct that money be subtracted from the dividend payment and
8 contributed to **the applicant's Alaska Work and Save Program participant**
9 **account (AS 44.25.400 - 44.25.490)**, the crime victim compensation fund
10 (AS 18.67.162), the peace officer and firefighter survivors' fund, or one or more of the
11 educational organizations, community foundations, or charitable organizations that
12 appear on the contribution list contained in the application. A contribution to **an**
13 **Alaska Work and Save Program participant account**, the crime victim
14 compensation fund, the peace officer and firefighter survivors' fund or to an

1 organization may be \$25, \$50, \$75, \$100, or more, in increments of \$50, up to the
 2 total amount of the permanent fund dividend that the applicant is entitled to receive. If
 3 the total amount of contributions elected by an applicant exceeds the amount of the
 4 permanent fund dividend that the applicant is entitled to receive, contributions shall be
 5 deducted from the dividend in the order of priority elected by the applicant on the
 6 application until the entire amount of the dividend that the applicant is entitled to
 7 receive is allocated for contribution. The electronic dividend application form must
 8 include notice that seven percent of the money contributed will be used for
 9 administrative costs incurred in implementing this section, and money from the
 10 dividend fund will not be used for that purpose.

11 * **Sec. 2.** AS 43.23.130(b) is amended to read:

12 (b) The department shall list each educational organization, community
 13 foundation, or charitable organization eligible under (c) and (d) of this section, each
 14 university campus that applies under (l) of this section, **the Alaska Work and Save**
 15 **Program**, the crime victim compensation fund, and the peace officer and firefighter
 16 survivors' fund on the contribution list. The department shall maintain an electronic
 17 database for the contribution list that is accessible to the public and that permits
 18 searches by organization or fund name, geographic location, and type. The department
 19 shall provide a statement of the contributions made by an individual that is suitable for
 20 federal income tax purposes to each individual who elects to contribute under (a) of
 21 this section.

22 * **Sec. 3.** AS 43.23.130(m) is amended to read:

23 (m) In addition to the application fee in (f) of this section, the department shall
 24 withhold a coordination fee from each organization, foundation, or university campus
 25 that receives contributions under this section in the immediately preceding dividend
 26 year. The coordination fee for an organization, foundation, or university campus that
 27 receives contributions under this section shall be seven percent of the amount of
 28 contributions reported by the department under (j) of this section for the organization,
 29 foundation, or university campus for the immediately preceding dividend year. The
 30 coordination fee shall be separately accounted for under AS 37.05.142 and shall be
 31 accounted for separately from the application fee collected under (f) of this section.

The annual estimated balance in the account maintained under AS 37.05.142 for coordination fees collected under this subsection may be appropriated for costs of administering this section. The department may not withhold a coordination fee for contributions to **an Alaska Work and Save Program participant account**, the crime victim compensation fund or the peace officer and firefighter survivors' fund.

* Sec. 4. AS 44.25 is amended by adding new sections to read:

Article 5. Alaska Work and Save Program.

Sec. 44.25.400. Alaska Work and Save Program. (a) The Alaska Work and Save Program is established in the Department of Revenue and administered by the Alaska Retirement Savings Board.

(b) An employer that does not offer a qualified retirement plan shall facilitate participation of the employer's employees in the program.

(c) Under the program,

(1) an eligible employee is automatically enrolled in the program at the default contribution rate established by the board;

(2) an eligible employee's contribution rate increases at the default rate established by the board;

(3) an eligible employee may

(A) opt out of the program or a contribution rate increase;

(B) make contributions at a rate different than the default rate established by the board;

(C) increase contributions at a rate different than the default rate established by the board;

(4) any person who earns compensation in this state is eligible to voluntarily enroll in the program.

(d) The state, the program, the board, and trustees

(1) may not guarantee a specific rate of return or interest for a contribution;

(2) are not liable for any loss incurred by a participant as a result of participating in the program;

(3) have no proprietary interest in contributions to, or earnings on

1 amounts contributed to, participant accounts.

2 (e) Nothing in AS 44.25.400 - 44.25.490 prohibits an employer from
3 establishing an alternative retirement plan for the employer's employees.

4 **Sec. 44.25.410. Alaska Retirement Savings Board.** (a) The Alaska
5 Retirement Savings Board is established in the Department of Revenue. The board is
6 the trustee of all contributions and earnings on amounts contributed to participant
7 accounts. The board's primary mission is to

8 (1) develop a retirement program for employees in this state who are
9 not offered a qualified retirement plan by an employer;

10 (2) conduct a market and legal analysis of the program; and

11 (3) facilitate the investment of funds contributed to participant
12 accounts.

13 (b) The board consists of nine trustees, as follows:

14 (1) the commissioner of labor and workforce development and the
15 commissioner of revenue;

16 (2) seven trustees appointed by the governor who meet the eligibility
17 requirements for an Alaska permanent fund dividend and who are professionally
18 credentialed or have recognized competence in investment management, finance,
19 banking, economics, or accounting.

20 (c) The trustees, other than the two commissioners, shall serve for staggered
21 terms of four years and may be reappointed to the board.

22 (d) The governor may, by written notice to the trustee, remove an appointed
23 trustee. After an appointed trustee receives written notice of removal, the trustee may
24 not participate in board business and may not be counted for purposes of establishing a
25 quorum.

26 (e) A vacancy on the board shall be promptly filled. A person filling a vacancy
27 holds office for the balance of the unexpired term of the person's predecessor. A
28 vacancy on the board does not impair the authority of a quorum of the board to
29 exercise all the powers and perform all the duties of the board.

30 (f) Five trustees constitute a quorum for the transaction of business and the
31 exercise of the powers and duties of the board.

(g) A trustee may not designate another person to serve on the board in the absence of the trustee.

(h) The board shall provide annual training to the trustees on the duties and powers of a fiduciary and other training as necessary to keep the trustees educated about retirement program management and investment.

(i) The board shall elect a trustee to serve as chair and a trustee to serve as vice-chair for one-year terms. A trustee may be reelected to serve additional terms as chair or vice-chair.

Sec. 44.25.420. Powers and duties of the board. (a) The board shall

(1) develop and administer the program;

(2) adopt regulations to implement AS 44.25.400 - 44.25.490;

(3) establish a process for enrollment in the program, including automatic employee enrollment and a process for an employee to opt out of the program;

(4) direct the investment of funds contributed to participant accounts and professionally manage participant accounts, consistent with

(A) investment restrictions established by the board; and

(B) standards of prudence;

(5) hold regular and special meetings at the call of the chair or of at least five trustees; meetings are open to the public, and the board shall keep a full record of all its proceedings;

(6) provide a range of investment options and establish the rules by which a participant may direct the participant's investments among those options;

(7) obtain an external performance review to evaluate the investment policies of the program and report the results to the department;

(8) by the first day of each regular legislative session, report to the governor and legislature on the financial condition of the program and any civil penalties issued under the program;

(9) develop an annual operating budget;

(10) in accordance with Internal Revenue Code limits, set a minimum, maximum, and default contribution rate and set a default rate for contribution

1 increases;

2 (11) allow a participant to adjust the rate of contributions to the
3 participant's account and the rate of increases to the contribution rate;

4 (12) establish a process to allow a participant to make contributions, in
5 addition to the participant's contributions through payroll deduction, to the
6 participant's account, including contributions from the participant's permanent fund
7 dividend;

8 (13) establish a process to allow a participant to withdraw funds from a
9 program account;

10 (14) deposit a contribution to the program directly in a participant
11 account;

12 (15) maintain separate records and accounting for each participant
13 account;

14 (16) provide program and account status reports to participants at least
15 once a year;

16 (17) allow participants to maintain a program account regardless of
17 employer;

18 (18) keep program administrative fees low;

19 (19) disclose to employees, employers, and program participants

20 (A) the benefits and risks of contributing to the program;

21 (B) instructions on contributing to the program and changing
22 contribution rates;

23 (C) the process to opt out of the program;

24 (D) the process to withdraw funds from a participant account;

25 (E) how to obtain additional program information;

26 (F) that the program is not an employer-sponsored retirement
27 plan;

28 (G) that financial advisors are best positioned to provide
29 financial advice and that employers are not liable for employee financial
30 decisions under AS 44.25.400 - 44.25.490;

31 (H) that the state does not guarantee participant accounts or a

rate of return;

(I) how an employee may file a complaint against an employer who fails to facilitate employee participation in the program.

(b) The board may

(1) contract for services necessary to execute the board's powers and duties;

(2) employ outside investment advisors to review investment policies;

(3) establish and collect fees to defray program administration costs;

(4) consider and purchase pooled private insurance for the program;

(5) develop and conduct outreach about the program and retirement

savings;

(6) request that the commissioner of labor and workforce development investigate an employer under AS 44.25.470;

(7) enter into agreements with other states to provide services related to retirement savings programs similar to the program;

(8) change the default contribution rate and default rate for contribution increases;

(9) use private sector partnerships to administer and invest contributions to the program;

(10) access information held by, and enter into service agreements with, other departments and agencies of the state.

Sec. 44.25.430. Attorney general. The attorney general is the legal counsel for the board and shall advise the board and represent the board in a legal proceeding.

Sec. 44.25.440. Compensation of trustees. A trustee, other than a trustee who is an employee of the state, a political subdivision of the state, or a school district or regional educational attendance area in the state, receives an honorarium of \$400 for each day spent at a meeting of the board, a meeting of a subcommittee of the board, a public meeting as a representative of the board, or traveling to or from a meeting. A trustee who is a state employee is entitled to administrative leave for service as a trustee. A trustee who is an employee of a political subdivision of the state or a school district or regional educational attendance area in the state is entitled to leave benefits

1 provided by the trustee's employer comparable to leave benefits provided to state
 2 employees for service as a trustee. A trustee is entitled to per diem and travel expenses
 3 authorized for boards and commissions under AS 39.20.180.

4 **Sec. 44.25.450. Staff.** (a) The department shall provide staff for the board.

5 (b) The board may designate a trustee or an officer or employee of the
 6 department to be responsible for signing on behalf of the board a deed, contract, or
 7 other document that must be executed by or on behalf of the board.

8 **Sec. 44.25.460. Confidentiality of information.** (a) Individual account
 9 information for participant accounts, including an account holder's name, address,
 10 telephone number, personal identification information, contributions, earnings, and
 11 account balance, is confidential and not a public record subject to disclosure.

12 (b) Notwithstanding (a) of this section, individual account information may be
 13 disclosed

14 (1) to the extent necessary to administer the program in a manner
 15 consistent with the tax laws of the state and the Internal Revenue Code; or

16 (2) if the account holder expressly agrees to the disclosure in writing.

17 **Sec. 44.25.470. Complaints.** (a) An employee may file a complaint with the
 18 commissioner of labor and workforce development alleging that an employer subject
 19 to AS 44.25.400 - 44.25.490 failed to facilitate employee participation in the program.

20 (b) The commissioner of labor and workforce development may, upon
 21 receiving an employee complaint or upon request of the board, investigate an
 22 employer. If the commissioner determines that the employer was required but failed to
 23 facilitate employee participation in the program for six months, the commissioner may
 24 impose a civil penalty on the employer.

25 (c) The commissioner of labor and workforce development may impose on an
 26 employer a civil penalty of up to \$100 for each employee of the employer who is
 27 eligible to participate in the program but for whom the employer does not facilitate
 28 participation in the program. The commissioner may not impose penalties under this
 29 section on a single employer that exceed \$5,000 in a calendar year.

30 (d) The commissioner of labor and workforce development shall notify the
 31 board when an employer has failed to facilitate employee participation in the program

1 and when the commissioner imposes a civil penalty on an employer.

2 (e) The board may notify an employer that has failed to facilitate employee
 3 participation in the program that the employer may be subject to a civil penalty for
 4 failure to comply with program requirements.

5 **Sec. 44.25.490. Definitions.** In AS 44.25.400 - 44.25.490,

6 (1) "board" means the Alaska Retirement Savings Board;

7 (2) "department" means the Department of Revenue;

8 (3) "employee" has the meaning given in AS 23.30.395;

9 (4) "employer" means a person or business that has employed one or
 10 more other persons in the state for not less than one year and does not provide a
 11 qualified retirement plan to employees;

12 (5) "program" means the Alaska Work and Save Program;

13 (6) "qualified retirement plan" includes a plan qualified under 26
 14 U.S.C. 401(a) or (k), 403(a) or (b), 408(k) or (p), or 457(b) (Internal Revenue Code).

15 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

17 ALASKA RETIREMENT SAVINGS BOARD; INITIAL APPOINTMENTS.
 18 Notwithstanding AS 44.25.410(c), added by sec. 4 of this Act, and AS 39.05.055, trustees of
 19 the Alaska Retirement Savings Board, other than the two commissioners, are appointed to
 20 initial terms as follows:

21 (1) four trustees shall serve four-year terms;

22 (2) three trustees shall serve two-year terms.

23 * **Sec. 6.** This Act takes effect January 1, 2024.