

ASSEMBLY, No. 1827

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

SYNOPSIS

Concerns State-administered retirement savings plan; establishes “Garden State MEP.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning a State-administered retirement savings plan
2 for private sector workers and supplementing P.L.2015, c.298
3 (C.43:23-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. A retirement savings plan in the form of a multiple employer
9 plan as described in section 210(a) of the “Employee Retirement
10 Income Security Act of 1974” (29 U.S.C. 1060(a)), is hereby
11 established in, and shall be administered by, the Department of the
12 Treasury. The multiple employer plan established pursuant to this
13 section shall be known as the “Garden State MEP.” The Garden
14 State MEP shall not be considered a governmental plan solely
15 because it is established and administered by the State, provided
16 that the plan is in compliance with the requirements of this act.
17

18 2. The Garden State MEP, established pursuant to section 1 of
19 this act, shall:

20 a. be a 401(k)-type plan, defined benefit plan, or other tax
21 favored retirement plan;

22 b. be open to all employers in the State, including any
23 employer described in section 401(c)(4) of the Internal Revenue
24 Code of 1986 (26 U.S.C. s.401(c)(4)), on a voluntary basis;

25 c. be subject to all requirements that apply to a plan described
26 in section 210(a) of the “Employee Retirement Income Security Act
27 of 1974” (29 U.S.C. s.1060(a)); and

28 d. provide for the ability to opt out for all employees of an
29 employer participating in the plan, if the plan provides for
30 automatic enrollment.
31

32 3. a. The plan sponsor, named fiduciary, and plan
33 administrator of the Garden State MEP shall be the Department of
34 the Treasury. As plan administrator, the department may directly
35 administer the Garden State MEP or contract with private sector
36 providers to administer the Garden State MEP.

37 b. The Department of the Treasury shall obtain tax
38 qualification from the United States Internal Revenue Service for
39 the Garden State MEP consistent with subsection a. of section 2 of
40 this act.

41 c. The Department of the Treasury shall determine, prior to
42 opening the plan for enrollment, the minimum criteria for
43 participation in the Garden State MEP with respect to the following:

44 (1) automatic enrollment for employees;

45 (2) the default contribution rate;

46 (3) the default investment option;

47 (4) annuitization; and

48 (5) leakage.

- 1 4. a. The Garden State MEP may enroll individuals directly in
2 the plan, if the individuals are employed by employers who do not
3 participate in the plan.
- 4 b. The Garden State MEP shall not require employer
5 participation in the form of contributions, bonuses, or monetary
6 incentives in the case of individual employee participation pursuant
7 to subsection a. of this section.
8
- 9 5. a. Contributions made to the Garden State MEP shall be
10 treated in the same manner for purposes of section 401 of the
11 Internal Revenue Code of 1986 (26 U.S.C. s.401) as contributions
12 to any other multiple employer plan described in section 210(a) of
13 the “Employee Retirement Income Security Act of 1974” (29
14 U.S.C. 1060(a)).
- 15 b. Any contributions made to the Garden State MEP shall be
16 used exclusively for the purpose of paying benefits, administration
17 costs, and for investments made for the benefit of the Garden State
18 MEP.
- 19 c. The Garden State MEP shall be treated as a plan subject to
20 section 413(c) of the Internal Revenue Code of 1986 (26 U.S.C.
21 s.413(c)).
22
- 23 6. Notwithstanding any law or regulation to the contrary, the
24 Garden State MEP shall be considered an approved plan pursuant to
25 P.L.2015, c.298 (C.43:21-1 et seq.). The Department of the
26 Treasury shall ensure that the Garden State MEP is available
27 through the New Jersey Small Business Retirement Marketplace
28 established pursuant to P.L.2015, c.298 (C.43:23-1 et seq.), or any
29 successor program established to connect employers and employees
30 with plans to increase retirement savings.
31
- 32 7. The Department of the Treasury shall design and make
33 available to employers an employee information packet and
34 marketing materials. The employee information packet shall
35 include background information on the Garden State MEP and
36 appropriate disclosures for employees. The department shall design
37 and operate an Internet website that provides plan information for
38 employers and employees, including information on how employers
39 and employees may voluntarily participate in the Garden State
40 MEP. Any information and marketing designed and made available
41 pursuant to this section shall promote the benefits of retirement
42 savings and provide information that promotes financial literacy.
43
- 44 8. This act shall take effect on the first day of the sixth month
45 next following enactment, except that the Department of the
46 Treasury may take such anticipatory administrative action in
47 advance as shall be necessary for the implementation of the act.

STATEMENT

This bill establishes the “Garden State MEP,” a retirement savings plan for private sector employers and employees in the form of a multiple employer plan as described in the federal “Employee Retirement Income Security Act of 1974” (29 U.S.C. 1060(a)) (hereinafter, ERISA). Under the provisions of the bill, the Garden State MEP is established in, and will be administered by, the Department of the Treasury.

Established as a multiple employer plan fully subject to ERISA and the federal Internal Revenue Code of 1986, this State-sponsored multiple employer plan is not preempted under federal law. The Garden State MEP will operate as an “open MEP,” meaning that it will not be required to demonstrate that employers participating in the plan share a common bond. Private sector sponsorship of such “open MEPs” is prohibited by federal law.

The bill provides that the Garden State MEP must:

- (1) be a 401(k)-type plan, defined benefit plan, or other tax favored retirement plan;
- (2) be open to all employers in the State on a voluntary basis;
- (3) be subject to all requirements that apply to a plan described in section 210(a) of ERISA; and
- (4) provide for the ability to opt out for all employees of an employer participating in the plan, if the plan provides for automatic enrollment.

The plan sponsor, named fiduciary, and plan administrator of the Garden State MEP shall be the Department of the Treasury. As plan administrator, the department may directly administer the Garden State MEP or contract with private sector providers to administer the Garden State MEP. The Department of the Treasury must obtain tax qualification from the United States Internal Revenue Service for the Garden State MEP. The bill requires the department to determine, prior to opening the plan for enrollment, the minimum criteria for participation in the Garden State MEP with respect to the following: automatic enrollment for employees; the default contribution rate; the default investment option; annuitization; and leakage.

The bill also requires that contributions made to the Garden State MEP will be treated in the same manner for purposes of section 401 of the federal Internal Revenue Code of 1986 as contributions to any other multiple employer plan described in section 210(a) of ERISA. Any contributions made to the Garden State MEP must be used exclusively for the purpose of paying benefits, administration costs, and for investments made for the benefit of the Garden State MEP.

Pursuant to the bill, and any law or regulation to the contrary, the Garden State MEP will be considered an approved plan pursuant to P.L.2015, c.298 (C.43:23-1 et seq.). The Department of the

1 Treasury must ensure that the Garden State MEP is available
2 through the New Jersey Small Business Retirement Marketplace
3 established pursuant to P.L.2015, c.298 (C.43:23-1 et seq.), or any
4 successor program established to connect employers and employees
5 with plans to increase retirement savings.
6 Finally, the bill requires the Department of the Treasury to
7 design and make available to employers an employee information
8 packet. The employee information packet must include background
9 information on the Garden State MEP and appropriate disclosures
10 for employees. The department is required to design and operate an
11 Internet website that provides plan information for employers and
12 employees, including information on how employers and employees
13 may voluntarily participate in the Garden State MEP.
14 Garden State MEP.”