SENATE DOCKET, NO. 1583 FILED ON: 1/21/2011

SENATE . . . . . No. 1303

The Commonwealth of Massachusetts

PRESENTED BY:

John Hart, Jr.

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 passage of the accompanying:

An Act provide retirement options for nonprofit organizations..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
John Hart, Jr.	
	☐ *[District]*
	☐

SENATE DOCKET, NO. 1583 FILED ON: 1/21/2011

SENATE . . . . . No. 1303

By Mr. Hart, petition (accompanied by bill, Senate, No. 1303) of Hart for legislation to provide retirement options for nonprofit organizations [Joint Committee on Public Service].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *4907* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act provide retirement options for nonprofit organizations..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 29 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 64D the following section:-

Section 64E. (a) The state treasurer, on behalf of the commonwealth, may sponsor a defined contribution plan that may be adopted by not-for-profit employers for their employees in accordance with section 401(a) of the Internal Revenue Code, in this section called the Code, regulations provided under that section and applicable guidance from the Internal Revenue Service. The state treasurer shall obtain approval from the Internal Revenue Service with respect to the plan and shall provide for administration of the plan so that it is in compliance with the Code and other applicable federal and state laws including the Employee Retirement Income Security Act of 1974, in this section called ERISA.

The plan shall provide for a qualified trust under said section 401(a), with contributions made to the trust by the not-for-profit employer, the employer's employees, or both. Under the trust instrument it shall be impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of employees or their beneficiaries. In order to participate in the plan, a not-for-profit employer shall: (i) execute a participation agreement, and (ii) agree to the terms of the plan and to operate the plan in compliance with the Code and ERISA. The state treasurer may require that the not-for-profit employer sign a service agreement and use forms and procedures prescribed by the treasurer.

20 The state treasurer may also require that certain employers seek approval from the Internal
21 Revenue Service with respect to their plans.

22 (b) The state treasurer may contract with practitioners, administrators, investment
23 managers and other entities in order to design, administer and provide investment options under
24 the plan. The state treasurer shall, before making any such contract, solicit bids from companies
25 authorized to conduct business within the commonwealth, which bids shall be sealed, and
26 opened at a time and place designated by the treasurer. A submitted bid shall, where applicable,
27 clearly indicate the interest rate which shall be paid on the deferred funds, any commissions
28 which will be paid to the salesmen, any load imposed for the purpose of administering the funds,
29 mortality projections, expected payouts, tax implications for participating employees and such
30 other information as the treasurer may require. A contract entered into between an employee and
31 the not-for-profit employer pursuant to this section shall include all such information in terms the
32 employee can reasonably be expected to understand. Upon the treasurer's determining which
33 provider offers the product or products most beneficial to the employee in each category for
34 which bids were solicited, the employee may choose the investment option for the employee's
35 account.

36 (c) There shall be in the office of the state treasurer a not-for-profit defined contribution
37 committee. The committee shall consist of the state treasurer or a designee, who shall serve as
38 chairperson, and 6 additional members appointed by the state treasurer, 3 of whom shall have
39 practical experience in the human services, educational or public and societal benefit sector of
40 the non-profit community and 3 of whom shall be currently employed by not-for-profit
41 corporations. The initial term of the first 3 appointees shall be for 2 years and the initial term of
42 the remaining appointees shall be for 3 years. Except that future appointments of the fourth, fifth,
43 and sixth members shall be arranged so as not to expire in the same year. All subsequent
44 appointments, including reappointments, shall be for a term of 3 years. In the case of a vacancy
45 of any of the members, a successor shall be appointed as aforesaid for a full term or for the
46 unexpired portion thereof, as the case may be. A member of the committee shall be eligible for
47 reappointment. The committee shall annually elect 1 of its members to serve as vice-
48 chairperson. The committee shall meet from time to time and assist the state treasurer in the
49 development of general policy regarding the program, and shall provide technical advice and
50 input to the state treasurer. The members of the committee shall serve without compensation, but
51 shall be reimbursed for expenses necessarily incurred in the performance of their duties.

52 (d) The state treasurer is hereby authorized to adopt rules and regulations related to this
53 section and do all things convenient to carry out the provisions and purposes of this section.

54 (e) As used in this section, the term "not-for-profit employer" shall include eligible
55 organizations incorporated under section 501(c) of the Internal Revenue Code, but does not
56 include a governmental employer.