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11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

13 Howard Jarvis Taxpayers
14 Association, Jonathan Coupal, and
15 Debra Desrosiers,

16 Plaintiffs,

17 v.

18 The California Secure Choice
19 Retirement Savings Program and John
20 Chiang, in his official capacity as chair
21 of the California Secure Choice
22 Retirement Savings Investment Board,

23 Defendants.

No. 2:18-cv-01584 MCE-KJN

**FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

24 1.

25 Plaintiff Howard Jarvis Taxpayers Association (“HJTA”), on behalf of itself as a
26 non-governmental employer and on behalf of its members as non-governmental
27 employees, non-governmental employers, and California taxpayers, and Plaintiffs
28 Jonathan Coupal and Debra Desrosiers as non-governmental employees and California
taxpayers, bring this complaint against The California Secure Choice Retirement
Savings Program (“Program”) and against John Chiang in his official capacity as the
chair of the California Secure Choice Retirement Savings Investment Board (“Board”).

2.

The California Secure Choice Retirement Savings Trust Act (AKA “CalSavers” FKA “Secure Choice”) codified at California Government Code sections 100000-100050¹ violates the Supremacy Clause of the United States Constitution because it is expressly preempted by the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et. seq. (“ERISA”). ERISA establishes nationally uniform standards to protect private employees and does not allow state-run retirement programs for private employees. Without preemption of CalSavers, such non-governmental employees’ funds will have none of the ERISA protections intended for them by the federal government since 1974. CalSavers is thus *ultra vires*, and HJTA seeks a declaration that CalSavers is void. Per supplemental jurisdiction, HJTA further seeks injunctive relief under California Code of Civil Procedure Section 526a to enjoin the waste of taxpayer funds on implementation costs under way.

JURISDICTION AND VENUE

3.

This Court has subject matter jurisdiction pursuant to the Supremacy Clause, U.S. Const. art. VI, cl. 2, and pursuant to 28 U.S.C. § 1331, because this case raises questions arising under federal law. This Court has exclusive jurisdiction under ERISA pursuant to 29 U.S.C. § 1132(e). This Court also has supplemental jurisdiction over the California Code of Civil Procedure section 526a claim pursuant to 28 U.S.C. § 1367.

4.

This Court has personal jurisdiction pursuant to 29 U.S.C. § 1132(e), because defendant John Chiang may be found in this district, and pursuant to 29 U.S.C. § 1132(d), because the Program is an employee benefit plan which may be sued as an entity.

¹ Attached hereto as **Exhibit A**, and incorporated herein by this reference, is a true and correct copy of California Government Code sections 100000 – 100050.

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5.

This Court is the proper venue pursuant to 28 U.S.C. § 1391, because the Defendant John Chiang as a California Constitutional officer has his office in the State Capitol of Sacramento, and because substantial events giving rise to the claim occurred and are occurring in this district.

PARTIES

6.

Plaintiff HJTA is a California nonprofit public benefit corporation with over 200,000 members. The late Howard Jarvis, founder of HJTA, utilized the People’s reserved power of initiative to sponsor Proposition 13 in 1978. Proposition 13 was overwhelmingly approved by California voters and added Article XIII A to the California Constitution. Proposition 13 has kept thousands of fixed-income Californians secure in their ability to stay in their own homes by limiting the rate and annual escalation of property taxes. HJTA continues to represent the interests of taxpayers at the state and local levels, including taxpayer and employee interests in pension reform, and the public interest in avoiding waste of taxpayer funds. HJTA members are participants or putative participants in CalSavers; employers subject to mandatory participation in CalSavers and thus putative fiduciaries; and California taxpayers. HJTA is itself an employer of five to eight employees without a private retirement plan and is thus a putative fiduciary.

7.

Plaintiff Jonathan Coupal is a non-governmental employee of HJTA and a California taxpayer residing in Sacramento County.

8.

Plaintiff Debra Desrosiers is a non-governmental employee of HJTA and a California taxpayer residing in Sacramento County.

9.

Defendant John Chiang is the California State Treasurer and Chair of the Board. Per California Government Code section 100002, Chiang and the Board “shall discharge

1 their duties as fiduciaries with respect to the trust solely in the interest of the program
2 participants” and shall do so “[f]or the exclusive purposes of providing benefits to
3 program participants and defraying reasonable expenses of administering the program.”
4 Chiang and the Board must “design and implement the California Secure Choice
5 Retirement Savings Program.”

6 10.

7 Defendant Program is a retirement savings arrangement established by California
8 Government Code sections 100000-100050 for non-governmental employees.

9 **FEDERAL LAW**

10 11.

11 ERISA supersedes state law pursuant to 29 U.S.C. § 1144(a). In 1974, ERISA’s
12 Congressional findings acknowledged the widespread growth and use of retirement
13 plans as employee benefits and other employee benefits, along with widespread
14 potential for abuse and mismanagement of those benefits and hard-earned wages
15 channeled into such plans. As a matter of national public interest, ERISA answered the
16 call for consistency in minimum standards of funding, protections, and enforcement for
17 employees. ERISA’s purposes are to protect employees and beneficiaries; to protect
18 interstate commerce; and to protect the federal taxing power. (29 U.S.C. § 1001.) ERISA
19 protects “the interests of participants in private pension plans and their beneficiaries by
20 improving the equitable character and the soundness of such plans by requiring them to
21 vest the accrued benefits of employees with significant periods of service, to meet
22 minimum standards of funding, and by requiring plan termination insurance.” (29 U.S.C.
23 § 1001.) Of specific concern are “unfunded pension liabilities” and “funding deficiencies
24 and future obligations,” all of which put participants’ retirement benefits at risk. (29
25 U.S.C. § 1001b.)

26 12.

27 The Secretary of the Department of Labor (“DOL”) may enact regulations to carry
28 out the provisions of ERISA. (29 U.S.C. § 1135.)

1 13.

2 DOL has implemented regulations regarding employee pension benefit plans at
3 29 CFR 2510.3-2(a-g.). DOL had implemented a “new safe harbor” in subsection (h) on
4 August 30, 2016, entitled “Savings Arrangements Established by States for Non-
5 Governmental Employees.” (81 Fed. Reg. 59464.) This regulation, according to the fact
6 sheet published by DOL’s Employee Benefits Security Administration (“EBSA”) on
7 November 16, 2015, “describe[d] circumstances under which a state-required payroll
8 deduction savings IRA program would not give rise to an employee pension benefit plan
9 under ERISA and, therefore, should not be preempted by ERISA.” The same fact sheet
10 stated that “The state must be responsible for the security of payroll deductions and
11 employee savings.” A simultaneous EBSA news release stated that the “new safe
12 harbor...would adopt a standard stating that the state-sponsored payroll deduction IRA
13 programs must be ‘voluntary’ for workers, rather than ‘completely voluntary’ as defined in
14 a 1975 rule.” It noted that “the employees and states would retain control of the program
15 and IRA accounts.”

16 14.

17 Under the Congressional Review Act, the United States Congress repealed 29
18 CFR 2510.3-2(h) on May 17, 2017, as follows:

19 *Resolved by the Senate and House of Representatives of the United*
20 *States of America in Congress assembled.* That Congress disapproves
21 the rule submitted by the Department of Labor relating to “Savings
22 Arrangements Established by States for Non-Governmental Employees”
(published at 81 Fed. Reg. 59464 (August 30, 2016)), and such rule shall
23 have no force or effect.
Approved May 17, 2017.

24 (Pub. L. No. 115-35 (May 17, 2017) 131 Stat. 848.)

1 **CALIFORNIA STATE PROVISIONS**

2 15.

3 CalSavers states: “The board shall not implement the program if the IRA
4 arrangements offered fail to qualify for the favorable federal income tax treatment
5 ordinarily accorded to IRAs under the Internal Revenue Code, **or if it is determined that**
6 **the program is an employee benefit plan under the federal Employee Retirement**
7 **Income Security Act.”** (Cal. Gov. Code, § 100043(a), emphasis added.) Accordingly,
8 the Budget Change Proposal for fiscal year 2017-2018² which requested a
9 \$170,000,000.00 loan to implement CalSavers stated:

10 “Before the Program can open for enrollment, SB1234 requires the Board
11 to report to the Governor and Legislature:

12 ...

- 13 • That the United States Department of Labor (DOL) has finalized a
14 regulation setting forth a safe harbor for savings arrangements
15 established by states for nongovernmental employees for the
16 purposes of the federal Employee Retirement Income Security Act
17 (ERISA)
- 18 • That the Board has defined in regulation the roles and
19 responsibilities of employers pursuant to criteria outlined in the DOL
20 regulation”

21 (Cf. Cal. Gov. Code, § 100043(b)(1)(A).)

22 16.

23 CalSavers was implemented on January 1, 2017. (Cal. Gov. Code, § 100046.)
24 Per the CalSavers statutes, the Board has broad powers to manage all funds, including
25 to contract with any California public retirement system or private institution, but the
26 employee plans are not to be treated as ERISA plans. (Cal. Gov. Code, §§ 100012(j);
27 100043.) Per the CalSavers statutes, the State has no liability for payment of these
28 employee benefits. (Cal. Gov. Code, § 100036.)

29 _____
30 ² Attached hereto as **Exhibit B**, and incorporated herein by this reference, is a true and correct copy of
31 pages 1 and 5 of the 2017-2018 Budget Change Proposal.

1 17.

2 CalSavers is mandatory on employers of five or more employees. (Cal. Gov.
3 Code, §§ 100000(d)(1); 100032.) Employees are automatically enrolled, but may opt out.
4 (Cal. Gov. Code, § 100032(f).)

5 **FIRST CLAIM FOR RELIEF AS TO ALL DEFENDANTS**
6 **(DECLARATORY JUDGMENT)**

7 **CalSavers Is Preempted By ERISA**

8 18.

9 HJTA repeats and incorporates paragraphs 1 through 17 as if fully set forth
10 herein.

11 19.

12 Declaratory judgment is available to HJTA pursuant to 28 U.S.C. § 2201 and 29
13 U.S.C. § 1132(a)(3). Each HJTA member would have standing to sue in his or her own
14 right and need not sue individually for preemption.

15 20.

16 ERISA’s express preemption statute declares that ERISA “shall supersede any
17 and all State laws insofar as they may now or hereafter relate to any employee benefit
18 plan described in section 4(a) [29 USCS § 1003(a)] and not exempt under section 4(b)
19 [29 USCS § 1003(b)].” (29 U.S.C. § 1144(a).) A savings arrangement established by a
20 State for non-governmental employees is not listed in the exceptions of § 1003(b).
21 Rather, CalSavers is an ERISA plan and/or set of ERISA plans under *Donovan v.*
22 *Dillingham* (11th Cir. 1982) 688 F.2d 1367 and 29 U.S.C. § 1002. As per *Donovan*, a
23 reasonable CalSavers participant can easily ascertain the intended benefits, class of
24 beneficiaries, source of financing³, and procedures for receiving benefits. (*Id.* at 1372.)

25 _____
26 ³ Attached hereto as **Exhibit C**, and incorporated by this reference is a true and correct copy of the
27 CalSavers Retirement Savings Program Program Fund Financial Statements With Independent Auditor’s
28 Report For Fiscal Year Ended June 30, 2017, published on the State Treasurer’s website at
<https://www.treasurer.ca.gov/scib/>, and specifically at <https://www.treasurer.ca.gov/scib/reports/2017-final-audit-report.pdf>. The “program fund” is separate from the “administrative fund.” (Cal. Gov. Code, § 100004.)

1 As per § 1002's requirement of "any plan, fund, or program," CalSavers self-describes as
2 a "retirement savings program." (Cal. Gov. Code, § 100000(b).) Further, the Program is
3 both established and maintained by employers per § 1002(2). ERISA "Employers" here
4 include: the Board and the California Secure Choice Retirement Savings Trust (Cal.
5 Gov. Code, § 100000(b), per §§ 1002(5) and 1002(9), and the actual employers. The
6 Board and the Trust are "employers" under ERISA's plain language because a "trust" is
7 a "person" who per § 1002(9) is "acting ... indirectly in the interest of an employer" per §
8 1002(5). The actual employers are also ERISA "employers." CalSavers' promotional
9 videos⁴ and Employer website⁵ admit that actual employers "offer" and "maintain" the
10 Program (or plans). The videos and website express that employers will be more than
11 ministerial. They will establish each separate plan, maintain it, and encourage and
12 educate employees regarding retirement, naturally serving as their employees' go-to
13 resource person. Thus, either CalSavers is one ERISA plan where the Board and/or
14 Trust is the statutory ERISA "Employer" — or — CalSavers requires the actual
15 employers to create thousands of separate ERISA plans. According to DOL Advisory
16 Opinions, if unrelated employers adhere to "identically worded trust agreements or
17 similar documents," it's possible that no employer group or association exists and thus
18 there is not one multi-employer plan, but that each employer "establishes and maintains
19 a separate employee benefit plan for the benefit of its employees" and "each employer
20 sponsor of a plan that participates in the arrangement will be subject to ERISA's fiduciary
21 provisions." (DOL Advisory Op. 2012-04A, at pp. 5-6.)⁶ (See also *Peckham v. GEM*

22
23
24 ⁴ Attached hereto as **Exhibit D**, and incorporated by this reference is a true and correct copy (lodged
25 on CD format) of the State Treasurer's promotional videos, which were published on the State Treasurer's
26 website at <https://www.treasurer.ca.gov/scib/video.asp>, along with a true and correct transcription of each.
27 In these videos, it is expressed that employers will "offer" the program as a benefit to their employees,
28 including to attract, retain, encourage, and educate them.

⁵ Attached hereto as **Exhibit E**, and incorporated by this reference is a true and correct copy of the
State Treasurer's webpage for CalSavers Employers, published at <https://employer.calsavers.com/>. This
page uses the words "registering" and "facilitating" synonymously to establishing. It further instructs
employers: "After your account is setup, you'll move to maintenance mode."

⁶ Attached as **Exhibit F**, and incorporated herein by this reference, is a true and correct copy of the
Department of Labor's Advisory Opinion 2012-04A, published at

1 *State Mut. Of Utah* (10th Cir. 1992) 964 F.2d 1043, 1049 [holding in an employer’s
2 subscription to a multi-employer group insurance trust that provides employers with
3 insurance for their employees, the purchase of insurance for its employees and the
4 listing of insurance in the company manual as an employee benefit created an
5 employment relationship in satisfaction of the “established or maintained” requirement].)

6 21.

7 ERISA contains extensive fiduciary duties as part of its minimum standards,
8 including to discharge those duties “in accordance with the documents and instruments
9 governing the plan.” (29 U.S.C. § 1104(a)(1)(D).) Per the Field Assistance Bulletin No.
10 2018-01 published by EBSA and dated April 23, 2018 at page 3: “A statement of
11 investment policy is part of the ‘documents and instruments governing the plan’ within
12 the meaning of ERISA section 404(a)(1)(D).” The Board issued its “Investment Policy
13 Statement”⁷ on May 21, 2018.

14 22.

15 An “employee benefit plan” under ERISA “means an employee welfare benefit
16 plan or an employee pension benefit plan or a plan which is both an employee welfare
17 benefit plan and an employee pension benefit plan.” (29 USCS § 1002(3).) The Program
18 is primarily a “retirement savings program” (Cal. Gov. Code, § 100000(b)), but it includes
19 “life insurance” and “investment products.” (Cal. Gov. Code, §§ 100000(j); 100016.) The
20 Program also violates the exclusive benefit rule for IRAs in 26 U.S.C. § 408(a) by pooling
21 funds and using a stated interest rate with a Gain and Loss Reserve Account. (Cal. Gov.
22 Code, § 100006.) No safe harbor such as 29 C.F.R. § 2510.3-2(d) can apply. As a
23 pension benefit plan or both a pension benefit plan and welfare benefit plan, the
24 Program is an “employee benefit plan” under ERISA. HJTA has standing to sue on
25 behalf of its members, which comprise hundreds of thousands of working California

26
27 <https://www.dol.gov/sites/default/files/ebsa/employers-and-advisers/guidance/advisory-opinions/2012-04a.pdf>.

28 ⁷ Attached as **Exhibit G**, and incorporated herein by this reference, is a true and correct copy of the CalSavers Investment Policy Statement, dated May 21, 2018.

1 taxpayers who are “or may become eligible to receive a benefit of any type from an
2 employee benefit plan” per ERISA, 29 U.S.C. § 1002(7).

3 23.

4 The CalSavers statutes expressly declare that the Program is designed not to be
5 an “employee benefit plan” under ERISA. (Cal. Gov. Code, § 100043.) If this is so, then
6 participants, putative participants, beneficiaries, and putative beneficiaries across
7 California suffer the loss of all Congressionally-provided nationally uniform ERISA
8 protections in their imminent automatic employee benefit plans. Per CalSavers statutes,
9 the State has no liability “for the payment of the retirement savings benefit earned by
10 program participants.” (Cal. Gov. Code, § 100036.)

11 24.

12 Because CalSavers applies to employers of five or more employees, CalSavers
13 subjects small businesses to administrative and legal turmoil should they have five or
14 more employees initially, but later only four or fewer employees. Such employers
15 automatically become ERISA plan administrators with all attendant administrative and
16 legal liabilities. (81 Fed. Reg. 59464, 59471.) This is an undue burden on small business
17 employers and employees alike. As small business owners, both HJTA members and
18 HJTA itself have putative fiduciary standing to sue for preemption because they are at
19 risk of involuntarily becoming ERISA plan administrators under the Program. The
20 California Department of Finance cautioned against implementing the Program in 2012
21 voicing concerns for State liability under ERISA, and noting that “[a]dditional burdens
22 would be placed on businesses to administer the payroll deduction.”⁸ The CalSavers
23 mandate (with penalties) also conflicts with ERISA by mandating private employee
24 benefit structures, interfering with employer autonomy to postpone or select other
25 options valid under ERISA. Never before has a private employer had to pay a penalty for
26

27 ⁸ Attached as **Exhibit H**, and incorporated herein by this reference, is a true and correct copy of the
28 California Department of Finance Analysis of SB 1234, dated May 2, 2012, published at
http://www.dof.ca.gov/legislative_analyses/LIS_PDF/11/SB-1234-201205137082613AM-SB01234.pdf.

1 *postponing* the selection of a retirement plan, and forced to select from options limited by
2 state law in a field governed by federal law. Under CalSavers, California employers lose
3 options which should remain available under ERISA's federal guidelines, such as to
4 designate one or more of the many private IRA sponsors on their own pursuant to 29
5 C.F.R. § 2509.99-1(d). That ERISA regulation is erased and replaced by the CalSavers
6 statutes, likely among other options of employers *in* ERISA to remain *outside* of ERISA.
7 Only Congress may implement an automatic savings program consistent with ERISA,
8 preserving uniformity. (See Automatic IRA Act of 2011, S. 1557, 112th Cong. (2011).)

9 25.

10 Because the U.S. Congress has expressly disavowed savings arrangements
11 established by States for non-governmental employees in Public Law 115-35, there is no
12 potentially valid DOL regulation permitting this state-run retirement arrangement. The
13 nationally uniform application of ERISA requires that this Court declare CalSavers void.

14 **SECOND CLAIM FOR RELIEF AS TO ALL DEFENDANTS**
15 **(INJUNCTIVE RELIEF)**

16 **CalSavers' Waste of Taxpayer Funds Is Subject to Injunction**
17 **Under California Code of Civil Procedure 526a**

18 26.

19 HJTA repeats and incorporates paragraphs 1 through 25 as if fully set forth
20 herein.

21 27.

22 All California private employees have equal access to individual retirement
23 accounts ("IRA"s) by telephone, internet, or walk-in options in the general marketplace.
24 All Californians with checking accounts have the right and opportunity to authorize
25 regular automatic debits by an IRA vendor of their choice.

26 28.

27 California Code of Civil Procedure section 526a states:
28

1 An action to obtain a judgment, restraining and preventing any illegal
2 expenditure of, waste of, or injury to, the estate, funds, or other property of
3 a county, town, city or city and county of the state, may be maintained
4 against any officer thereof, or any agent, or other person, acting in its
5 behalf, either by a citizen resident therein, or by a corporation, who is
6 assessed for and is liable to pay, or, within one year before the
7 commencement of the action, has paid, a tax therein. This section does not
8 affect any right of action in favor of a county, city, town, or city and county,
9 or any public officer; provided, that no injunction shall be granted
10 restraining the offering for sale, sale, or issuance of any municipal bonds
11 for public improvements or public utilities.

12 An action brought pursuant to this section to enjoin a public improvement
13 project shall take special precedence over all civil matters on the calendar
14 of the court except those matters to which equal precedence on the
15 calendar is granted by law.

16 29.

17 California Code of Civil Procedure section 526a applies to State legislative action
18 through established case law, and thus applies to CalSavers. The purpose of section
19 526a, “which applies to citizen and corporate taxpayers alike, is to permit a large body of
20 persons to challenge wasteful government action that otherwise would go unchallenged
21 because of the standing requirement. [Citation.] . . . [A]lthough by its terms the statute
22 applies to local governments, it has been judicially extended to all state and local
23 agencies and officials. [Citations.]’ (*Waste Management of Alameda County, Inc. v.*
24 *County of Alameda* (2000) 79 Cal.App.4th 1223, 1240.) ‘[T]he individual citizen must be
25 able to take the initiative through taxpayers’ suits to keep government accountable on
26 the state as well as on the local level.’ [Citation.]’ (*Farley v. Cory* (1978) 78 Cal. App. 3d
27 583, 589.)” (*Vasquez v. State of California* (2003) 105 Cal.App. 4th 849.) Taxpayers
28 have standing when challenging unconstitutional government actions causing waste.
(*California DUI Lawyers Ass’n v. California Dept. of Motor Vehicles* (2018) 20
Cal.App.5th 1247.)

30.

HJTA members, Plaintiff Jonathan Coupal, and Plaintiff Debra Desrosiers have all
paid sales taxes, income taxes, and other taxes to the State of California within one year

1 of the date of filing this action. Plaintiff HJTA has also paid sales taxes and other taxes to
2 the State of California within one year of the date of filing this action.

3 31.

4 Defendant Chiang, by and through the Board, has spent, and continues to spend
5 California taxpayer dollars implementing the Program. As of September 25, 2017,
6 \$450,000.00 was spent from a general fund loan, and \$20,000,000.00 more was
7 requested from the Department of Finance. The Legislature approved a loan of
8 \$16,900,000.00. As of March 31, 2018, expenditures since the Program's inception
9 totaled \$1,549,629.00.

10 **REQUEST FOR RELIEF**

11 WHEREFORE, HJTA respectfully requests that this Court:

- 12 (1) Declare that ERISA applies to the Program and preempts CalSavers as
13 codified at California Government Code sections 100000-100050;
14 (2) Permanently enjoin Defendant Program and Defendant Chiang and his
15 successors, agents, and employees from wasting taxpayer funds by further
16 implementing CalSavers; and
17 (3) Grant HJTA any such additional or different relief as it deems just and proper.

18 DATED: April 11, 2019.

19 By: /s/ Laura E. Murray
Laura E. Murray, CA SBN 255855
20 Of Attorneys for Plaintiffs

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26 Attorneys for Plaintiffs:
27 Howard Jarvis Taxpayers Association,
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28

Exhibit A

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TITLE 21. THE CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS TRUST ACT [100000 - 100050] (Title 21 added by Stats. 2012, Ch. 734, Sec. 3.)

100000. For purposes of this title, the following definitions shall apply:

(a) "Board" means the California Secure Choice Retirement Savings Investment Board.

(b) "California Secure Choice Retirement Savings Program" or "program" means a retirement savings program offered by the California Secure Choice Retirement Savings Trust.

(c) (1) "Eligible employee" means a person who is employed by an eligible employer.

(2) "Eligible employee" does not include:

(A) Any employee covered under the federal Railway Labor Act (45 U.S.C. Sec. 151), or any employee engaged in interstate commerce so as not to be subject to the legislative powers of the state, except insofar as application of this title is authorized under the United States Constitution or laws of the United States.

(B) Any employee on whose behalf an employer makes contributions to a Taft-Hartley pension trust fund.

(d) (1) "Eligible employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in the state, whether for profit or not for profit, excluding the federal government, the state, any county, any municipal corporation, or any of the state's units or instrumentalities, that has five or more employees and that satisfies the requirements to establish or participate in a payroll deposit retirement savings arrangement.

(2) Upon a positive determination pursuant to subdivision (a) of Section 100046, eligible employer means an employer of a provider of in-home supportive services, as regulated by Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) "Eligible employer" does not include an employer that provides a retirement savings program as described in subdivision (g) of Section 100032.

(e) "IRA" means an individual retirement account or individual retirement annuity under Section 408(a), 408(b), or 408A of Title 26 of the United States Code.

(f) "myRA" means the federal myRA retirement savings program, including any successor program, offered by the United States Department of the Treasury or an IRA offered under that program.

(g) "Participating employer" means an eligible employer that provides a payroll deposit retirement savings arrangement provided for by this title for eligible employees.

(h) "Payroll deposit retirement savings arrangement" means an arrangement by which an employer allows employees to remit payroll deduction contributions to a retirement savings program, which may include an IRA, and in the case of a payroll deduction IRA arrangement, to remit specifically to an IRA.

(i) "Trust" means the California Secure Choice Retirement Savings Trust established by this title.

(j) "Vendor" means a registered investment company or admitted life insurance company qualified to do business in California that provides retirement investment products. "Vendor" also includes a company that is registered to do business in California that provides payroll services or recordkeeping services and offers retirement plans or payroll deduction IRA arrangements using products of regulated investment companies and insurance companies qualified to do business in California. "Vendor" does not include individual registered representatives, brokers, financial planners, or agents.

(Amended by Stats. 2016, Ch. 804, Sec. 1. (SB 1234) Effective January 1, 2017.)

Case 2:18-cv-01584-MCE-KJN Document 25 Filed 04/11/19 Page 16 of 72

100002. (a) (1) There is hereby created within state government the California Secure Choice Retirement Savings Investment Board, which shall consist of nine members, with the Treasurer serving as chair, as follows:

(A) The Treasurer.

(B) The Director of Finance, or his or her designee.

(C) The Controller.

(D) An individual with retirement savings and investment expertise appointed by the Senate Committee on Rules.

(E) An employee representative appointed by the Speaker of the Assembly.

(F) A small business representative appointed by the Governor.

(G) A public member appointed by the Governor.

(H) Two additional members appointed by the Governor.

(2) Members of the board appointed by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall serve at the pleasure of the appointing authority.

(b) All members of the board shall serve without compensation. Members of the board shall be reimbursed for necessary travel expenses incurred in connection with their board duties.

(c) A board member, program administrator, and other staff of the board shall not do any of the following:

(1) Directly or indirectly have any interest in the making of any investment made for the program, or in the gains or profits accruing from any investment made for the program.

(2) Borrow any funds or deposits of the trust, or use those funds or deposits in any manner, for himself or herself or as an agent or partner of others.

(3) Become an endorser, surety, or obligor on investments by the board.

(d) The board and the program administrator and staff, including contracted administrators and consultants, shall discharge their duties as fiduciaries with respect to the trust solely in the interest of the program participants as follows:

(1) For the exclusive purposes of providing benefits to program participants and defraying reasonable expenses of administering the program.

(2) By investing with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(e) The board, subject to its authority and fiduciary duty, shall design and implement the California Secure Choice Retirement Savings Program.

(1) (A) For up to three years following the initial implementation of the program, the board shall establish managed accounts invested in United States Treasuries, myRAs, or similar investments.

(B) The board shall have the authority to provide for investment in myRAs, provided that, in accordance with the myRA provisions, myRA contributions and investment returns shall only be used for myRA investments and to make distributions to, or for the benefit of, participants and shall not be used to pay any costs of administration.

(2) (A) During period described in paragraph (1), the board shall develop and implement an investment policy that defines the program's investment objectives and shall establish policies and procedures enabling investment objectives to be met in a prudent manner. The board shall seek to minimize participant fees and strive to implement program features that provide maximum possible income replacement balanced with appropriate risk in an IRA-based environment. The policy shall describe the investment options available to holders of individual savings accounts established as part of the program. Investment options may encompass a range of risk and return opportunities and allow for a rate of return commensurate with an appropriate level of risk to meet the investment objectives stated in the policy.

(B) The board may also develop investment option recommendations that address risk-sharing and smoothing of market losses and gains. Investment option recommendations may include, but are not limited to, the creation of a reserve fund or the establishment of customized investment products. Implementation of an investment option recommendation pursuant to this subparagraph shall be contingent upon subsequent approval by the Legislature.

(3) After the period described in paragraph (1) has expired, the board shall annually prepare and adopt a written statement of investment policy that includes a risk management and oversight program. The board shall consider the statement of investment policy and any changes in the investment policy at a public hearing.

(4) The risk management and oversight program shall include an effective risk management system to monitor the risk levels of the California Secure Choice Retirement Savings Program investment portfolio and ensure that the risks taken are prudent and properly managed. The program shall be managed to provide an integrated process for overall risk management on both a consolidated and disaggregated basis, and to monitor investment returns as well as risk to determine if the risks taken are adequately compensated compared to applicable performance benchmarks and standards.

(f) The board shall approve an investment management entity or entities, the costs of which shall be paid out of funds held in the trust and shall not be attributed to the administrative costs of the board in operating the trust. Not later than 30 days after

the close of each month, the board shall place on file for public inspection during business hours a report with respect to investments made pursuant to this section and a report of deposits in financial institutions.

(Amended by Stats. 2016, Ch. 804, Sec. 2. (SB 1234) Effective January 1, 2017.)

100004. (a) There is hereby established a retirement savings trust known as the California Secure Choice Retirement Savings Trust to be administered by the board for the purpose of promoting greater retirement savings for California private employees in a convenient, voluntary, low-cost, and portable manner. After sufficient funds are made available for this title to be operative, the California Secure Choice Retirement Savings Trust, as a self-sustaining trust, shall pay all costs of administration only out of moneys on deposit therein.

(b) The board shall segregate moneys received by the California Secure Choice Retirement Savings Trust into two funds, which shall be identified as the program fund and the administrative fund. Notwithstanding Section 13340, moneys in the trust are hereby continuously appropriated, without regard to fiscal years, to the board for the purposes of this title.

(c) Moneys in the program fund may be invested or reinvested by the Treasurer or may be invested in whole or in part under contract with the board of a California public retirement system, with private money managers, or in myRAs, or a combination thereof, as determined by the board.

(d) Transfers may be made from the program fund to the administrative fund for the purpose of paying operating costs associated with administering the trust and as required by this title, including, but not limited to, board operations, program administrator and investment expenses, and enforcement and compliance costs. On and after six years from the date the program is implemented, on an annual basis, expenditures from the administrative fund shall not exceed more than 1 percent of the total program fund. All costs of administration of the trust shall be paid out of the administrative fund.

(e) Any contributions paid by employees and employers into the trust shall be used exclusively for the purpose of paying benefits to the participants of the California Secure Choice Retirement Savings Program, for the cost of administration of the program, and for investments made for the benefit of the program.

(f) The California Secure Choice Retirement Savings Trust is an instrumentality of the state. Any security issued, managed, or invested by the California Secure Choice Retirement Savings Investment Board within the California Secure Choice Retirement Savings Trust on behalf of an individual participating within the California Secure Choice Retirement Savings Program shall be exempt from Sections 25110, 25120, and 25130 of the Corporation Code.

(Amended by Stats. 2016, Ch. 804, Sec. 3. (SB 1234) Effective January 1, 2017.)

100006. (a) The board may establish a segregated account within the program fund to be known as the Gain and Loss Reserve Account. The board shall have sole authority over the Gain and Loss Reserve Account, if established. The Gain and Loss Reserve Account may be used to allocate interest at the stated interest rate for program years in which the board determines that the stated interest rate cannot be met from investment earnings.

(b) The board shall establish a goal for the balance of the Gain and Loss Reserve Account and shall periodically review the sufficiency of the reserve account based on the recommendations of the board's actuary.

(c) The board may allocate excess earnings of the program with respect to assets attributable to the program to the Gain and Loss Reserve Account. In addition, the board may allocate any liability gains and losses to the Gain and Loss Reserve Account. Based on an actuarial valuation following each program year, the board shall determine annually the amount, if any, that is to be allocated to the Gain and Loss Reserve Account for that program year. In determining whether to allocate excess earnings to the Gain and Loss Reserve Account, the board shall consider all of the following:

- (1) Whether or not the program has excess earnings.
- (2) The sufficiency of the Gain and Loss Reserve Account in light of the goal established pursuant to subdivision (b).
- (3) The amount required for the program's administrative costs.
- (4) The amount required for making allocations to individuals' accounts at the stated interest rate.

(d) In determining whether to allocate liability gains and losses to the Gain and Loss Reserve Account, the board shall consider the matters described in paragraphs (2), (3), and (4) of subdivision (c).

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100008. The California Secure Choice Retirement Savings Program shall include, as determined by the board, one or more payroll deduction IRA arrangements.

(Amended by Stats. 2016, Ch. 804, Sec. 4. (SB 1234) Effective January 1, 2017.)

100010. (a) The board shall have the power and authority to do all of the following:

- (1) Make and enter into contracts necessary for the administration of the trust.
- (2) Adopt a seal and change and amend it from time to time.
- (3) Cause moneys in the program fund to be held and invested and reinvested.

Case 2:18-cv-01584-MCE-KJN Document 25 Filed 04/11/19 Page 18 of 72

- (4) Accept any grants, gifts, legislative appropriation, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the administrative fund or the program fund.
 - (5) Contract with a program administrator and determine the duties of the program administrator. The Treasurer shall, on behalf of the board, appoint an executive director, who shall not be a member of the board and who shall serve at the pleasure of the board. The Treasurer shall determine the duties of the executive director and other staff as appropriate and set his or her compensation. The board may authorize the executive director to enter into contracts on behalf of the board or conduct any business necessary for the efficient operation of the board.
 - (6) Make provisions for the payment of costs of administration and operation of the trust.
 - (7) Employ staff.
 - (8) Retain and contract with the board of a California public retirement system, private financial institutions, other financial and service providers, consultants, actuaries, counsel, auditors, third-party administrators, and other professionals as necessary.
 - (9) Procure insurance against any loss in connection with the property, assets, or activities of the trust.
 - (10) Procure insurance indemnifying each member of the board from personal loss or liability resulting from a member's action or inaction as a member of the board.
 - (11) Set minimum and maximum investment levels in accordance with contribution limits set for IRAs by the Internal Revenue Code.
 - (12) Collaborate and cooperate with the board of a California public retirement system, private financial institutions, service providers, and business, financial, trade, membership, and other organizations to the extent necessary or desirable for the effective and efficient design, implementation, and administration of the program and to maximize outreach to eligible employers and eligible employees.
 - (13) Collaborate with, and evaluate the role of, licensed insurance agents and financial advisors in assisting and providing guidance for eligible employees.
 - (14) Cause expenses incurred to initiate, implement, maintain, and administer the program to be paid from contributions to, or investment returns or assets of, the program or arrangements established under the program, to the extent permitted under state and federal law.
 - (15) Facilitate compliance by the retirement savings program or arrangements established under the program with all applicable requirements for the program under the Internal Revenue Code of 1986, including tax qualification requirements or any other applicable law and accounting requirements, including providing or arranging for assistance to program sponsors and individuals in complying with applicable law and tax qualification requirements in a cost-effective manner.
 - (16) Carry out the duties and obligations of the California Secure Choice Retirement Savings Trust pursuant to this title and exercise any and all other powers as appropriate for the effectuation of the purposes, objectives, and provisions of this title pertaining to the trust.
- (b) The board shall adopt regulations it deems necessary to implement this title consistent with the Internal Revenue Code and regulations issued pursuant to that code to ensure that the program meets all criteria for federal tax-deferral or tax-exempt benefits, or both.

(Amended by Stats. 2016, Ch. 804, Sec. 5. (SB 1234) Effective January 1, 2017.)

100012. In addition to the powers and authority granted to the board pursuant to Section 100010, the board shall have the power and authority to do the following:

- (a) Cause the retirement savings program or arrangements established under the program to be designed, established, and operated, in a manner consistent with all of the following:
 - (1) In accordance with best practices for retirement savings vehicles.
 - (2) To encourage participation, saving, and sound investment practices, and appropriate selection of default investments.
 - (3) With simplicity, ease of administration for participating employers, and portability of benefits.
- (b) Arrange for collective, common, and pooled investment of assets of the retirement savings program or arrangements, including investments in conjunction with other funds with which those assets are permitted to be collectively invested, with a view to saving costs through efficiencies and economies of scale.
- (c) Disseminate educational information designed to educate participants about the benefits of planning and saving for retirement and information to help them decide the level of California Secure Choice Retirement Savings Program participation and savings strategies that may be appropriate for them.
- (d) Disseminate information concerning tax credits available to small business owners for allowing their employees to participate in the program, and the federal Retirement Savings Contribution Credit (Saver's Credit) available to lower and moderate-income households for qualified savings contributions.
- (e) Submit progress and status reports to participating employers and eligible employees.

- (f) If necessary, determine the eligibility of an employer, employee, or other individual to participate in the program.
- (g) Evaluate and establish the process by which an eligible employee of an eligible employer is able to contribute a portion of his or her salary or wages to the program for automatic deposit of those contributions and the participating employer provides a payroll deposit retirement savings arrangement to forward the employee contribution and related information to the program or its agents. This may include, but is not limited to, financial services companies and third-party administrators with the capability to receive and process employee information and contributions for payroll deposit retirement savings arrangements or other arrangements authorized by this title.
- (h) Design and establish the process for the enrollment of program participants.
- (i) Allow participating employers to use the program to remit employees' contributions to their IRAs on their employees' behalf.
- (j) Allow participating employers to make their own contributions to their employees' IRAs, provided that the contributions would be permitted under the Internal Revenue Code and would not cause the program to be treated as an employee benefit plan under the federal Employee Retirement Income Security Act.
- (k) Evaluate and establish the process by which an individual or an employee of a nonparticipating employer may enroll in and make contributions to the program.

(Amended by Stats. 2016, Ch. 804, Sec. 6. (SB 1234) Effective January 1, 2017.)

100014. (a) Prior to opening the California Secure Choice Retirement Savings Program for enrollment, the board shall design and disseminate to employers through the Employment Development Department (EDD) an employee information packet that shall be available in an electronic format. The packet shall include background information on the program and appropriate disclosures for employees.

(b) The disclosure form shall include, but not be limited to, all of the following:

- (1) The benefits and risks associated with making contributions to the program.
- (2) The mechanics of how to make contributions to the program.
- (3) How to opt out of the program.
- (4) The process for withdrawal of retirement savings.
- (5) How to obtain additional information on the program.

(c) In addition, the disclosure form shall clearly articulate the following:

- (1) Employees seeking financial advice should contact financial advisors, that employers do not provide financial advice, that employees are not to contact their employers for financial advice, and that employers are not liable for decisions employees make pursuant to Section 100034.
- (2) This retirement program is not sponsored by the employer, and therefore the employer is not responsible for the plan or liable as a plan sponsor.
- (3) The program fund is not guaranteed by the State of California.

(d) The disclosure form shall include a method for the employee to acknowledge that the employee has read all of the disclosures and understands their content.

(e) The employee information packet shall also include an opt-out form for an eligible employee to note his or her decision to opt out of participation in the program. The opt-out notation shall be simple and concise and drafted in a manner that the board deems necessary to appropriately evidence the employee's understanding that he or she is choosing not to automatically deduct earnings to save for retirement.

(f) The employee information packet with the disclosure and opt-out forms shall be made available to employers through EDD and supplied to employees at the time of hiring. All new employees shall review the packet and acknowledge having received it.

(g) The employee information packet with the disclosure and opt-out forms shall be supplied to existing employees when the program is initially launched for that participating employer pursuant to Section 100032.

(Amended by Stats. 2016, Ch. 804, Sec. 8. (SB 1234) Effective January 1, 2017.)

100016. (a) Prior to opening the California Secure Choice Retirement Savings Program for enrollment, if there is sufficient interest by vendors to participate and provide the necessary funding, the board shall establish both of the following:

- (1) A Retirement Investments Clearinghouse on its Internet Web site.
- (2) A vendor registration process through which information about employer-sponsored retirement plans, and payroll deduction IRAs offered by private sector providers is made available for consideration by eligible employers.

(b) Vendors that would like to participate in the board's Retirement Investments Clearinghouse and be listed on the board's Internet Web site as a registered vendor shall provide all of the following information:

Case 2:18-cv-01584-MCE-KJN Document 25 Filed 04/11/19 Page 20 of 72

- (1) A statement of experience in California and in other states in providing employer-sponsored retirement plans, and payroll deduction IRAs.
- (2) A description by the vendor of the types of retirement investment products offered.
- (3) A disclosure of all expenses paid directly or indirectly by retirement plan participants, including, but not limited to, penalties for early withdrawals, declining or fixed withdrawal charges, surrender or deposit charges, management fees, and annual fees, supported by documentation as required for prospectus disclosure by the National Association of Securities Dealers and the Securities and Exchange Commission. Vendors shall be required to provide information regarding the impact of product fees upon a hypothetical investment, as described in Section 100022.
- (4) The types of products, product features, services offered to participants, and information about how to access product prospectuses or other relevant product information.
- (5) A discussion of the ability, experience, and commitment of the vendor to provide retirement counseling and education services, including, but not limited to, access to group meetings and individual counseling by various means, including telephone and telecommunications devices for the deaf (TDD), Internet, and face-to-face consultations by registered representatives.
- (6) A statement of the financial strength of the vendor by identifying its ratings assigned by nationally recognized rating services that evaluate the financial strength of similar companies.
- (7) The location of offices and counselors, individual registered representatives, brokers, financial planners, agents, or other methods of distribution, of the vendor that would serve employers and their employees in California.
- (8) A description of the ability of the vendor to comply with all applicable provisions of federal and state law governing retirement plans, including minimum distribution requirements and contribution limits.
- (9) To the extent applicable, the demonstrated ability of the vendor to offer an appropriate array of accumulation funding options, including, but not limited to, investment options that offer guaranteed returns on contributions and the conversion of retirement savings account balances to secure retirement income, a diversified mix of value, growth, growth and income, hybrid, and index funds or accounts across large, medium, and small capitalization asset classes, both domestic and international.
- (10) A discussion of the range of administrative and customer services provided, including asset allocation, accounting and administration of benefits for individual participants, recordkeeping for individual participants, asset purchase, control, and safekeeping, execution of a participant's instructions as to asset and contribution allocation, calculation of daily net asset values, direct access for participants to their account information, periodic reporting that is not less than quarterly to active participants on their account balances and transactions, and compliance with the standard of care consistent with federal law and applicable to the provision of investment services.
- (11) Certification by the vendor that the information provided to the board accurately reflects the provisions of the retirement investment products it registers.

(c) Vendors shall supply information and data in the format prescribed by the board.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100018. Registration shall be offered to vendors once annually, and renewal of registration shall be required at least once every five years thereafter for vendors that wish to continue to participate in the Retirement Investments Clearinghouse. The board shall provide public notice prior to the initial registration, annual registration, and registration renewal periods.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100020. (a) The board may remove a vendor from the registry if the vendor submits materially inaccurate information to the board, does not remit assessed fees within 60 days, or fails to submit notice of material changes to its registered investment products. Vendors found to have submitted materially inaccurate information to the board shall be allowed 60 days to correct the information.

(b) The board shall remove a vendor from the registry if investments offered by the vendor are products of a regulated investment company or insurance company that is not licensed or has had its license revoked by the Financial Industry Regulatory Authority or the Department of Insurance for engaging in conduct prohibited by those entities.

(c) The board shall establish an appeals process for vendors that are denied registration or removed from the registry.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100022. (a) The board shall maintain the Retirement Investments Clearinghouse containing the information required in Section 100016 about the retirement investment products offered by each registered vendor and objective comparisons of vendors and types of products.

(b) The clearinghouse shall include information on investment performance based upon the investment's average annual total return as measured by a nationally recognized rating service selected by the board for standard periods of time of not less than one year.

(c) The board's Internet Web site shall include a table showing, for each registered fund, the total fee cost in dollars incurred by a shareholder who initially invested five thousand dollars (\$5,000), earned a 5 percent rate of return for one-, five-, 10-, 15-, and 20-year time periods. This table shall be accompanied by a disclaimer that the rate of return is for purposes of illustrating the respective impacts of different fee amounts on each investment, and is not to predict future investment returns.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100024. The board shall include a notice of the existence of, and the Internet Web site address for, the Retirement Investments Clearinghouse in a notice disseminated to eligible employers through the Employment Development Department.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100026. A vendor may not charge a fee associated with a registered product that is not disclosed.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100028. (a) The actual cost of establishing the vendor registration system and the Retirement Investments Clearinghouse shall be borne equally by registered vendors, based on the total number of registered vendors. Each registered vendor shall pay a one-time establishment fee equal to a pro rata share of the establishment costs charged to vendors that register with the board prior to the close of the initial registration period, as determined by the board. The one-time establishment fee charged to vendors that register with the board after the completion of the initial registration period shall be distributed equally among registered vendors that have paid the establishment fee and credited toward subsequent maintenance and administrative fees charged to each vendor.

(b) The actual cost of maintaining the vendor registration system and the Retirement Investments Clearinghouse, and the costs associated with publicizing the availability of the clearinghouse to eligible employers, shall be borne equally by registered vendors, based on the total number of registered vendors. Each registered vendor shall pay a renewal fee equal to a pro rata share of the maintenance costs, as determined by the board.

(c) Each registered vendor shall pay an administrative fee for each retirement investment product it offers to employers, which shall represent the actual costs associated with processing the information related to the investment option and presenting it on the Retirement Investments Clearinghouse, as determined by the board.

(d) The board shall not divert California Secure Choice Retirement Savings Trust funds to establish or maintain the vendor registration system or the Retirement Investments Clearinghouse.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100030. (a) The board and the program, and its officers and employees, are not responsible for, and shall not be held liable for, the adequacy of the information provided by the participating vendors and contained in the clearinghouse. The clearinghouse maintained by the board serves only to provide information supplied by the participating vendors for the consideration of the selection of retirement investment products.

(b) Participating vendors shall not utilize the program's logo, or claim or infer endorsement or recommendation by the board or the program with respect to products and services identified by the vendors in the clearinghouse. At the discretion of the board, a violation of this section may lead to removal from the registry.

(c) The board and the program shall not be held liable for the actions of registered vendors.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100032. (a) After the board opens the California Secure Choice Retirement Savings Program for enrollment, any employer may choose to have a payroll deposit retirement savings arrangement to allow employee participation in the program under the terms and conditions prescribed by the board.

(b) Within 12 months after the board opens the program for enrollment, eligible employers with more than 100 eligible employees and that do not offer a retirement savings program pursuant to subdivision (g) shall have a payroll deposit retirement savings arrangement to allow employee participation in the program.

(c) Within 24 months after the board opens the program for enrollment, eligible employers with more than 50 eligible employees and that do not offer a retirement savings program pursuant to subdivision (g) shall have a payroll deposit retirement savings arrangement to allow employee participation in the program.

(d) Within 36 months after the board opens the program for enrollment, all other eligible employers that do not offer a retirement savings program pursuant to subdivision (g) shall have a payroll deposit retirement savings arrangement to allow employee participation in the program.

(e) The board, in its discretion, may extend the time limits defined in subdivisions (b) to (d), inclusive.

(f) (1) Each eligible employee shall be enrolled in the program unless the employee elects not to participate in the program. An eligible employee may elect to opt out of the program by making a notation on the opt-out form.

(2) Following initial implementation of the program pursuant to this section, at least once every two years, the board shall designate an open enrollment period during which eligible employees that previously opted out of the program shall be given the employee information packet with the disclosure and opt-out forms, for the employee to enroll in the program or opt out of the program by making a notation on the opt-out form.

(3) An employee who elects to opt out of the program who subsequently wants to participate through the employer's payroll deposit retirement savings arrangement may only enroll during the board's designated open enrollment period or if permitted at an earlier time.

(g) (1) An employer that provides an employer-sponsored retirement plan, such as a defined benefit plan or a 401(k), Simplified Employee Pension (SEP) plan, or Savings Incentive Match Plan for Employees (SIMPLE) plan, or that offers an automatic enrollment payroll deduction IRA, shall be exempt from the requirements of the California Secure Choice Retirement Savings Program, if the plan or IRA qualifies for favorable federal income tax treatment under the federal Internal Revenue Code.

(2) An employer shall retain the option at all times to set up and offer a tax-qualified retirement plan, as described in paragraph (1), instead of having a payroll deposit retirement savings arrangement to allow employee participation in the California Secure Choice Retirement Savings Program.

(h) An eligible employee may also terminate his or her participation in the program at any time in a manner prescribed by the board and thereafter by making a notation on the opt-out form.

(i) Unless otherwise specified by the employee, a participating employee shall contribute 3 percent of the employee's annual salary or wages to the program.

(j) By regulation, the board may adjust the contribution amount set in subdivision (i) to no less than 2 percent and no more than 5 percent and may vary that amount within that 2 percent to 5 percent range for participating employees according to the length of time the employee has contributed to the program.

(k) The board may implement annual automatic escalation of employee contributions.

(1) Employee contributions subject to automatic escalation shall not exceed 8 percent of salary.

(2) Automatic escalation shall result in no more than a 1-percent-of-salary increase in employee contributions per calendar year.

(3) A participating employee may elect to opt out of automatic escalation and may set his or her contribution percentage rate at a level determined by the participating employee.

(Amended by Stats. 2016, Ch. 804, Sec. 9. (SB 1234) Effective January 1, 2017.)

100034. (a) Employers shall not have any liability for an employee's decision to participate in, or opt out of, the California Secure Choice Retirement Savings Program, or for the investment decisions of employees whose assets are deposited in the program.

(b) Employers shall not be a fiduciary, or considered to be a fiduciary, over the California Secure Choice Retirement Savings Trust or the program. The program is a state-administered program, not an employer-sponsored program. If the program is subsequently found to be preempted by any federal law or regulation, employers shall not be liable as plan sponsors. An employer shall not bear responsibility for the administration, investment, or investment performance of the program. An employer shall not be liable with regard to investment returns, program design, and benefits paid to program participants.

(c) An employer's voluntary contribution under subdivision (j) of Section 100012 shall not in any way contradict the provisions of this section or change the employer's relationship to the program or an employer's obligations to employees.

(d) An employer shall not have civil liability, and no cause of action shall arise against an employer, for acting pursuant to the regulations prescribed by the board defining the roles and responsibilities of employers that have a payroll deposit retirement savings arrangement to allow employee participation in the program.

(Amended by Stats. 2016, Ch. 804, Sec. 10. (SB 1234) Effective January 1, 2017.)

100036. The state shall not have any liability for the payment of the retirement savings benefit earned by program participants pursuant to this title. The state, and any of the funds of the state, shall have no obligation for payment of the benefits arising from this title.

(Amended by Stats. 2016, Ch. 804, Sec. 11. (SB 1234) Effective January 1, 2017.)

100038. (a) Notwithstanding Section 10231.5, the board shall submit an annual audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the California Secure Choice Retirement Savings Trust by August 1 to the Governor, the Controller, the State Auditor, and the Legislature, pursuant to Section 9795. The annual audit shall be made by an independent certified public accountant and shall include, but not be limited to, direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees.

(b) The annual audit shall be supplemented by the following information prepared by the board:

- (1) Any studies or evaluations prepared in the preceding year.
- (2) A summary of the benefits provided by the trust including the number of participants in the trust.
- (3) Any other information that is relevant in order to make a full, fair, and effective disclosure of the operations of the California Secure Choice Retirement Savings Trust.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100043. (a) The board shall not implement the program if the IRA arrangements offered fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under the Internal Revenue Code, or if it is determined that the program is an employee benefit plan under the federal Employee Retirement Income Security Act.

(b) (1) Prior to opening the program for enrollment, the board shall report to the Governor and Legislature the specific date on which the program will start to enroll program participants and that the following prerequisites and requirements for the program have been met:

(A) The program is structured in a manner to keep the program from being classified as an employee benefit plan subject to the federal Employee Retirement Income Security Act.

(B) The payroll deduction IRA arrangements offered by the program qualify for the favorable federal income tax treatment ordinarily accorded to IRA arrangements under the Internal Revenue Code.

(C) The board has defined in regulation the roles and responsibilities of employers in a manner to keep the program from being classified as an employee benefit plan subject to the federal Employee Retirement Income Security Act.

(D) The board has adopted a third-party administrator operational model that limits employer interaction and transactions with the employee to the extent feasible.

(2) The report required by paragraph (1) shall be submitted in compliance with Section 9795.

(Amended by Stats. 2017, Ch. 21, Sec. 10. (AB 119) Effective June 27, 2017.)

100044. This title shall be construed liberally in order to effectuate its legislative intent. The purposes of this title and all of its provisions with respect to the powers granted shall be broadly interpreted to effectuate that intent and purposes and not as to any limitation of powers.

(Added by Stats. 2012, Ch. 734, Sec. 3. (SB 1234) Effective January 1, 2013.)

100046. The California Secure Choice Retirement Savings Program is approved by the Legislature and implemented as of January 1, 2017. The board shall consider and utilize the following parameters in designing the program:

(a) the board shall include a provider of in-home supportive services, as regulated by Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code in the program if the board determines, and the Director of the State Department of Social Services and the Director of the Department of Finance certify, in writing, all of the following:

(1) The inclusion meets all state and federal legal requirements.

(2) The appropriate employer of record has been identified for the purpose of satisfying all the program's employer requirements.

(3) The payroll deduction, described in Section 12302.2 of the Welfare and Institutions Code, can be implemented at reasonable costs.

(4) The inclusion does not create a financial liability for the state or employer of record.

(b) The board shall structure the program so as to ensure the state is prohibited from incurring liabilities associated with administering the program and that the state has no liability for the program or its investments.

(c) The board shall determine necessary costs associated with outreach, customer service, enforcement, staffing and consultant costs, and all other costs necessary to administer the program.

(d) The board shall consult with employer representatives to create an administrative structure that facilitates employee participation while addressing employer needs, including, but not limited to, clearly defining employers' duties and liability exemption pursuant to Section 100034.

(e) The board shall include comprehensive worker education and outreach in the program, and the board may collaborate with state and local government agencies, community-based and nonprofit organizations, foundations, vendors, and other entities deemed appropriate to develop and secure ongoing resources for education and outreach that reflect the cultures and languages of the state's diverse workforce population.

(f) The board shall include comprehensive employer education and outreach in the program, with an emphasis on employers with less than 100 employees, developed in consultation with employer representatives, with the integration of the following components:

(1) A program Internet Web site to assist the employers of participating employees.

(2) A toll-free help line for employers with live and automated assistance.

(3) Online Internet Web training.

(4) Live presentations to business associations.

(5) Targeted outreach to small businesses with 10 or less employees.

(Added by Stats. 2016, Ch. 804, Sec. 16. (SB 1234) Effective January 1, 2017.)

100048. The board may adopt regulations to implement this title. The adoption, amendment, repeal, or re-adoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6, and the board is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1.

(Added by Stats. 2016, Ch. 804, Sec. 17. (SB 1234) Effective January 1, 2017.)

100049. A payroll deposit IRA arrangement offered pursuant to the California Secure Choice Retirement Savings Program shall have the same status as, and be treated consistently with, any other IRA for the purpose of determining eligibility or benefit level for a program that uses a means test.

(Added by Stats. 2016, Ch. 804, Sec. 18. (SB 1234) Effective January 1, 2017.)

100050. Funding for startup and first-year administrative costs may be appropriated from the General Fund in the annual Budget Act. The board shall repay the amount appropriated, plus interest calculated at the rate earned by the Pooled Money Investment Account. Necessary administrative costs in future years shall be paid out of the administrative fund.

(Added by Stats. 2016, Ch. 804, Sec. 19. (SB 1234) Effective January 1, 2017.)

Exhibit B

Fiscal Year 2017-18	Business Unit 0984	Department California Secure Choice Retirement Savings Investment Board	Priority No. 1
Budget Request Name 0984-001-BCP-2017-GB		Program 0910 - California Secure Choice Retirement Savings Investment Board	Subprogram

Budget Request Description
 Implementation of the California Secure Choice Retirement Savings Program

Budget Request Summary

The California Secure Choice Retirement Savings Investment Board (Board) requests a General Fund loan of \$170,000,000 over four fiscal years to provide resources for the Board and the California Secure Choice Retirement Savings Program (Program) including: (1) funding for staff, (2) funding for external consultants, (3) funding necessary for operating and overhead costs, and (4) funding necessary to execute agreements with a third party administrator(s) to provide recordkeeping, investment management, and other services necessary to route, receive, and invest contributions from Program participants.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project No. Project Approval Document: Approval Date:

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By	Date	Reviewed By	Date
Department Director	Date	Agency Secretary Steve Juarez	Date

Department of Finance Use Only	
Additional Review: <input type="checkbox"/> Capital Outlay <input type="checkbox"/> ITCU <input type="checkbox"/> FSCU <input type="checkbox"/> OSAE <input type="checkbox"/> CALSTARS <input type="checkbox"/> Dept. of Technology	
BCP Type: <input type="checkbox"/> Policy <input type="checkbox"/> Workload Budget per Government Code 13308.05	
PPBA	Date submitted to the Legislature

The consultants established a baseline scenario using assumptions more conservative than their findings from the market analysis conducted as part of the Board's comprehensive feasibility study. Those assumptions include:

- Default contribution rate: 5%²
- Employee opt-out rate: 25%
- In-service leakage rate (% of assets a year): 1%
- Share of employees taking lump-sum pre-retirement withdrawal: 50%
- Total effective annual leakage from plan: 3.5%
- Total Fees Charged to Participants in first years of operation: 1% of assets
- Nominal Investment Returns: 0% for years 1-3, 3% following

Using those data and assumptions, the Consultants estimated revenue and costs necessary to operate the Program. Because the first few years of the Program will not have as large a base of revenue as future years, and because the Program will require up-front expenses in the first few years, the Consultants recommended seeking authority to borrow funds beyond what may be necessary to operate the Program in order to keep participant fees low. Because program expenses would exceed 1% of program assets for an estimated three years, the Program may require borrowing of funds to prevent the charging of excessive fees to participants for the first one to six years of operation.

E. Outcomes and Accountability

Outcome

The implementation of the Program will provide millions of Californians with access to a workplace retirement savings plan. Such a plan will provide those Californians a convenient and simple means to save and accumulate interest on those savings that can provide additional financial security as they age.

Accountability

Before the Program can open for enrollment, SB 1234 requires the Board to report to the Governor and Legislature:

- The specific date on which the Program will start to enroll participants into the Program
- That the Board has adopted a third-party administrator operational model that limits employer interactions and transactions with the employee to the extent feasible
- That the United States Department of Labor (DOL) has finalized a regulation setting forth a safe harbor for savings arrangements established by states for nongovernmental employees for the purposes of the federal Employee Retirement Income Security Act (ERISA)
- That the Board has defined in regulation the roles and responsibilities of employers pursuant to criteria outlined in the DOL regulation

F. Analysis of All Feasible Alternatives

Alternative #1: Approve the Board's request for a General Fund loan of \$170,000,000 over four fiscal years to fund initial start-up and administrative costs, funding for external consultants/contract services,

² For clarification, the default contribution rate of five percent is what was used in the assumptions of the Feasibility Report. The Feasibility Report was completed prior to SB 1234 (of 2016), which established the default contribution rate at three percent.

Exhibit C

**CALSAVERS RETIREMENT
SAVINGS PROGRAM
PROGRAM FUND**

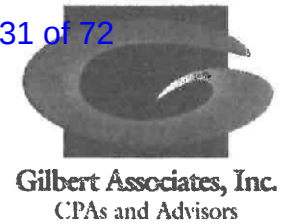
**FINANCIAL STATEMENTS WITH
INDEPENDENT AUDITOR'S REPORT**

**FOR THE FISCAL YEAR ENDED
JUNE 30, 2017**

CALSAVERS RETIREMENT SAVINGS PROGRAM
PROGRAM FUND

TABLE OF CONTENTS
JUNE 30, 2017

	<u>PAGE</u>
FINANCIAL STATEMENTS	
Independent Auditor's Report	1
Balance Sheet	3
Statement of Revenues, Expenditures, and Changes in Fund Balance	4
Notes to Financial Statements	5



INDEPENDENT AUDITOR'S REPORT

California Secure Choice Retirement
Savings Investment Board
Sacramento, California

Report on the Financial Statements

We have audited the accompanying financial statements of the CalSavers Retirement Savings Program, Program Fund (the Program Fund), a program of the State of California, as of and for the year ended June 30, 2017, and the related notes to the financial statements, which collectively comprise the Program Funds' basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

California Secure Choice Retirement
Savings Investment Board
Page Two

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the CalSavers Retirement Savings Program, Program Fund of the State of California as of June 30, 2017, and the change in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 1, the financial statements of the CalSavers Retirement Saving Program, Program Fund are intended to present the financial position, and the change in financial position of the CalSavers Retirement Saving Program, Program Fund of the State of California that is attributable to the transactions of the Program. They do not purport to, and do not, present fairly the financial position of the State of California as of June 30, 2017, and the changes in its financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.



GILBERT ASSOCIATES, INC.
Sacramento, California

July 24, 2018

**CALSAVERS RETIREMENT SAVINGS PROGRAM
PROGRAM FUND**

**BALANCE SHEET
JUNE 30, 2017**

ASSETS:	
Cash and investments in State Treasury	\$ 1,744,409
Accounts receivable - abatements	50
Due from other funds	<u>4,260</u>
Total Assets	<u>\$ 1,748,719</u>
 LIABILITIES:	
Accounts payable	\$ 110,210
Due to other funds	2,337
Loan payable - General Fund	<u>1,900,000</u>
Total Liabilities	<u>2,012,547</u>
 FUND BALANCE:	
Unassigned	<u>(263,828)</u>
Total Liabilities and Fund Balance	<u>\$ 1,748,719</u>

**CALSAVERS RETIREMENT SAVINGS PROGRAM
PROGRAM FUND**

STATEMENT OF REVENUES, EXPENDITURES,
AND CHANGES IN FUND BALANCE
FOR THE FISCAL YEAR ENDED JUNE 30, 2017

REVENUES:	
Investment and interest	<u>\$ 9,993</u>
 EXPENDITURES:	
Salaries, wages, and benefits	61,131
Consultants and professional services	252,508
Information technology	12,055
General expenses	5,958
Facilities operation	5,709
Communications	3,593
Travel	1,076
Printing	<u>289</u>
Total Expenditures	342,319
Changes in Fund Balance	<u>(332,326)</u>
 FUND BALANCE:	
Beginning of the Year	<u>68,498</u>
End of the Year	<u>\$ (263,828)</u>

CALSAVERS RETIREMENT SAVINGS PROGRAM
PROGRAM FUND

NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2017

1. REPORTING ENTITY

The California Secure Choice Retirement Savings Investment Board (“Board”) was created by Senate Bill number 1234, first enacted in September 2012. The final legislation authorizing the Board’s programmatic work was enacted in September 2016 and took effect January 1, 2017. The Board is the administrator of the CalSavers Retirement Savings Program (“CalSavers Program,” formerly the Secure Choice Retirement Savings Program) and the State agency responsible for the administration of the California Secure Choice Retirement Savings Trust (“Trust”). The Board consists of nine-members, with the California State Treasurer serving as the Chair.

Statute requires that all private sector employers with five or more employees that do not offer a payroll deduction retirement savings vehicle either begin offering one or provide their employees access to the CalSavers Program. Under this California State mandate, employers would be exempt from the Employee Retirement Income Security Act (ERISA), enabling their employees participation through payroll contributions into a Roth or traditional IRA. Furthermore, after the CalSavers Program is open for enrollment, any mandated employer may choose to have a payroll deposit retirement savings arrangement to allow employee participation in the CalSavers Program.

In 2015, with the aid of philanthropic funds raised from private sources in 2013 and 2014, the Board hired consultants to conduct a mandated feasibility study. With the feasibility study complete in early 2016 and the final authorizing legislation passed in September 2016, the Board used the remaining donated funds to begin operations in 2017. As of June 30, 2017, the CalSavers Program was under development and had no investment options or participants in the Trust. The California Law that formed the Trust directs the Board to segregate moneys received into two funds, the Program Fund and the Administrative Fund. These financial statements present only the financial information on the activities of the Program Fund. The Administrative Fund was established subsequent to June 30, 2017 and therefore, has no financial activity for the June 30, 2017 fiscal year end. In future fiscal years, the Program Fund may make transfers to the Administrative Fund for the purpose of paying operating costs associated with administering the Trust, board operations, program administrator and investment expenses, and enforcement and compliance costs. Additionally, per legislation, after six years from the date the CalSavers Program is implemented, expenditures from the Administrative Fund shall not exceed more than one percent of the total Program Fund. All costs of administration for the Trust will be paid out of the Administrative Fund in future fiscal years.

The CalSavers Program contracts with the California State Treasurer’s Office to provide administrative support including, but not limited to accounting, budgets, data processing, personnel, legal, and business services.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accounting policies of the Program Fund conform to generally accepted accounting principles as applicable to governments. The following is a summary of significant accounting policies:

A. FUND ACCOUNTING

The accounts of the Program Fund are maintained in accordance with the principles of fund accounting under standards issued by the Governmental Accounting Standards Board (GASB). Fund

CALSAVERS RETIREMENT SAVINGS PROGRAM
PROGRAM FUND

NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2017

accounting is the procedure by which resources for various programs are classified for accounting and reporting into funds established in accordance with their nature and purpose. The operations of the Program Fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund balance, revenues, and expenditures. The Programs Fund has been classified as a governmental/special revenue fund type per the State of California, Department of Finance.

B. BASIS OF ACCOUNTING/ FUND FINANCIAL STATEMENTS

Basis of accounting refers to when revenues and expenditures, or expenses, are recognized in the accounts and reported in the financial statements.

The Program Fund's financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collected within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, revenues are considered available if they are collected within one year of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting.

C. RETIREMENT PLAN

All eligible CalSavers Program employees participate in the California Public Employees' Retirement System (CalPERS), which is included in the State of California's (State) Comprehensive Annual Financial Report in the General Fund. CalPERS administers the Public Employees' Retirement Fund (PERF). PERF is an agent multiple-employer defined benefit retirement plan. Funds, departments and agencies within the State, including the CalSavers Program, are in a cost-sharing arrangement in which all risks and costs are shared proportionately by participating State funds/agencies. CalPERS issues a publicly available financial report that includes financial statements and required supplementary information for this plan. This report is available online at www.calpers.ca.gov.

The State charges the CalSavers Program for its share of required contributions to the PERF. For the year ended June 30, 2017, the Program Fund was charged \$10,720 for its share of the CalPERS contribution.

Additional disclosure detail required by Government Accounting Standards Board Statement No. 68, regarding the defined benefit plan are presented in the Comprehensive Annual Financial Report of the State of California, which is available on the State Controllers website at www.sco.ca.gov.

D. OTHER POST-EMPLOYMENT BENEFITS (OPEB)

The State of California provides health care and dental benefits to annuitants of retirement systems to which the State contributes as an employer. A portion of the State's post-retirement benefit costs are attributable to the employees of the CalSavers Program.

Additional disclosure detail required by Government Accounting Standards Board Statement No. 45, regarding post-retirement benefits are presented in the Comprehensive Annual Financial Report of the State of California, which is available on the State Controllers website at www.sco.ca.gov.

**CALSAVERS RETIREMENT SAVINGS PROGRAM
PROGRAM FUND**

**NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2017**

E. RISK MANAGEMENT

The CalSavers Program is part of the State of California, which is primarily self-insured against loss or liability. The State generally does not maintain reserves; losses are covered by appropriations in the year in which the payment occurs or it becomes fixed and determinable. The CalSavers Program has not had any claims subject to this coverage. Additional disclosure details required by the Governmental Accounting Standards Board regarding risk management are presented in the basic financial statements of the State of California.

F. USE OF ESTIMATES

Management uses estimates and assumptions in preparing financial statements in accordance with generally accepted accounting principles. Those estimates and assumptions affect the reported amount of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. Actual results could vary from the estimates that were assumed in preparing the financial statements.

3. CASH AND INVESTMENTS IN STATE TREASURY

The Program Fund's cash and investments at June 30, 2017 consist of the following:

Deposits in Surplus Money Investment Fund	\$ 1,744,000
Cash in State Treasury	<u>409</u>
 Cash and investments in State Treasury	 <u>\$ 1,744,409</u>

The investments must be allowable through the Pooled Money Investment Account (PMIA), which is operated by the State Treasurer's Office, which is granted the authority by California Government Code Sections 16430 and 16480.4. Allowable investments are as follows:

- U.S. government securities
- Securities of federally-sponsored agencies
- Domestic corporate bonds
- Interest-bearing time deposits in California banks
- Savings and loan associations and credit unions
- Prime-rated commercial paper
- Repurchase and reverse repurchase agreements
- Security Loans
- Banker's Acceptances
- Negotiable certificates of deposits
- Loans to various bond funds

The CalSavers Program invests excess cash funds in the Surplus Money Investment Fund (SMIF). All of the resources of SMIF are invested through PMIA. The PMIA investment program is designated by the Pooled Money Investment Board and is administered by the office of the State Treasurer.

**CALSAVERS RETIREMENT SAVINGS PROGRAM
PROGRAM FUND**

**NOTES TO FINANCIAL STATEMENTS
JUNE 30, 2017**

Additional disclosure detail required by Government Accounting Standards Board Statement No. 3, No. 31, No. 40, and No. 72 regarding cash deposits and investments in State Treasury, including disclosures related to interest rate risk, credit risk, custodial credit risk, and concentration of credit risk, are presented in the financial statements of the State of California.

4. INTERFUND PAYABLES AND RECEIVABLES

The following schedule summarizes the amounts due to/from other funds at June 30, 2017:

<u>Due From (Due To)</u>	<u>Description</u>	
SMIF	Interest income	\$ 4,260
State Compensation Insurance Fund	Insurance	(396)
Services Revolving Fund	Administrative support	(1,780)
State Payroll Revolving Fund	Payroll related services	<u>(161)</u>
Net Due From (To) other funds		<u>\$ 1,923</u>

The amount due from SMIF represents unpaid interest earned by the CalSavers Program. The amount due to other funds represents expenses paid by other funds within the State of California on behalf of the CalSavers Program. As of June 30, 2017, the due from and due to balances are considered short-term and will be paid within a year after the fiscal year end.

5. LOANS PAYABLE – GENERAL FUND

During the June 30, 2017 fiscal year, the CalSavers Program received a loan from the State of California's General Fund in the amount of \$1,900,000. Per Senate Bill number 1234, this loan is appropriated for funding startup and first-year administrative costs of the CalSavers Program. The CalSavers Program shall repay the loan by June 30, 2022, with interest calculated at the rate earned by the PMIA at the time of the transfer.

6. COMMITMENTS AND CONTINGENCIES

The CalSavers program has been named in a piece of outstanding litigation. However, based on consultation with legal counsel, management believes that the ultimate resolution of this matter will not have a material adverse effect on the Program Fund's results of operations.

7. SUBSEQUENT EVENT

In July 2018, the California State Controller's Office reclassified the Program fund from a Special Revenue Fund to a Private Purpose Trust fund for the fiscal year ending June 30, 2018.

Exhibit D

Calsavers Video 1 Transcript

Open on Gulsum Rustemoglu

[Onscreen]

Gulsum Rustemoglu: My name is Gulsum Rustemoglu. My business is GEPermit.

Text: Gulsum Rustemoglu, Founder/President

[On/Offscreen]

Gulsum Rustemoglu: It actually stands for Global Environmental Permitting. We provide environmental consultant services and planning services to public agencies and private developers. We did realize the employees wanted to have to have these kind of retirement savings plans because, as you know, as a small business, we don't have a mandate.

Cut to Katie Selenski

Text: Katie Selenski, Executive Director

[Onscreen]

Katie Selenski: The program will help employers because it'll help level the playing field for their recruitment and retention goals by allowing them to offer their employees a retirement savings plan just like their competitors.

Cut to Gulsum Rustemoglu

[Onscreen]

Gulsum Rustemoglu: We wanted to retain qualified employees, good employees and we don't want to lose them to our, you know, competitors and larger firms that do provide those benefits.

Cut to Deborah Lowe Muramoto

Text: Deborah Lowe Muramoto, Women's Business Center

[Onscreen]

Deborah Lowe Muramoto: It'll be good for the business community because, in the past, there hasn't been a way for us to be able to educate small businesses on what kind of vehicles are out there to provide their employees with retirement savings.

Cut to Gulsum Rustemoglu

[Onscreen]

Gulsum Rustemoglu: That research phase was really challenging for me. Who should I go with? Effectiveness was very important for me and, you know, as the small business owner, we don't have the luxury of a lot of accounting and administrative staff who can really handle it all so I was the one, basically, have to spend days and times, which one is the best for my employees.

Calsavers Video 2:

Text: Katie Selenski, Executive Director

[Onscreen]

Katie Selenski: My name is Katie Selenski and I'm the Executive Director of the program. This program was created because nearly half of California workers are on a trajectory to retire into economic hardship. The creators of the program saw that as a major problem to address and we also know that people are fifteen times more likely to be on a path to retirement security if they have a way to save automatically via payroll deduction at work.

Text: Ricardo Sibrian, Owner of Sac Café and Brew

[Onscreen]

Ricardo Sibrian: But now that Calsavers is coming along and being able to consult and, you know, teach them the benefits from it, I think they will have a better understanding.

Text: Deborah Lowe Muramoto, Women's Business Center

[Onscreen]

Deborah Lowe Muramoto: I'm Deborah Lowe Muramoto and I'm the director of the California Capital Women's Business Center in Sacramento, California. What excites me the most about this retirement savings program, it addressed the issue of lack of access for small businesses. There are seven million people in California who do not have a retirement plan.

Text: John Chiang, CA State Treasurer

[Onscreen]

John Chiang: Hi, I'm John Chiang. I'm the California State Treasurer. I also serve as the chair of the State's effort to put together a plan for retirement security for our private sector workers. SB 1234 was the pioneering effort to create this program to provide retirement security.

[Offscreen]

Katie Selenski: The program will help employees because it's a simple, affordable, low-fee way for them to save for their future and even if a person works part time or seasonally or have multiple jobs,

[Onscreen]

...they'll be able to save for their future because the account follows them.

Ricardo Sibrian: So, the great thing about Calsavers is that it's universal and it is a great tool for employers or business owners to keep their employees happy.

[Offscreen]

John Chiang: So, the program is gonna become public in 2019.

[Onscreen]

Video 3

Text: Lorenzo Harris, Founder/President

[Onscreen]

Lorenzo Harris: My name is Lorenzo Harris. I'm the founder and president of Janico Building Services...

[On/offscreen]

Lorenzo Harris: ...a building service contractor, headquartered in North Highlands, California. We have not started a retirement savings program because being a small company of approximately forty-one employees, the administrative burden and cost would be prohibitive for us

Text: Deborah Lowe Muramoto, Women's Business Center

Deborah Lowe Muramoto: What excites me the most about this retirement savings program that we'll be launching in California is it addresses the issue of lack of access for small businesses.

Lorenzo Harris: The building service contracting industry has inherently high turnover, turnover rate can be upwards of fifty percent.

Text: Katie Selenski, Executive Director

Katie Selenski: The program will help employees because it's a simple, portable, low fee way for them to save for their future.

[Offscreen]

And the program is totally portable from the employee's perspective. They can take it with them when they change jobs.

[Onscreen]

Lorenzo Harris: For us, here at Janico, it will actually allow us to attract people, and then we have people that is working for us right now that it will allow them to stay with the company.

[Onscreen]

Katie Selenski: And even if a person works part time or seasonally or has multiple jobs, they'll be able to save for their future because the account follows them.

[Onscreen]

Lorenzo Harris: So, if we have the ability to offer our employees a retirement savings plan that was reasonably priced and with low administrative burden, we would gladly welcome the opportunity to do so.

Text: Calsavers. Safe, Simple, Portable.

Text: AARP® California Real Possibilities

Online Video 4 Transcript

Open on Zachary Davis.

Text: Zach Davis, Co-Owner

[Onscreen]

Zachary Davis: My name is Zachary Davis. I'm the co-owner of The Glass Jar. We're a small restaurant group based in Santa Cruz, California, and includes Assembly Restaurant, The Picnic Basket Café, and The Penny Ice Creamery, where I am right now.

Cut to images of Santa Cruz, boy eating ice cream, and exterior shot of The Penny Ice Creamery.

[Onscreen]

Zachary Davis: One of the things that I think we share with a lot of small businesses is that our employees are really like family. So, having an option for retirement savings that works for them, works for us, is really a great thing.

Cut to Katie Selenski

Text: Katie Selenski, Executive Director

[Onscreen]

Katie Selenski: What we hear from small businesses is that they don't offer a retirement savings plan because it's administratively burdensome to set it up and because of a financial cost.

Cut to Zachary Davis

[Onscreen]

Zachary Davis: As a small business owner, I'm dealing with a lot of stuff, so if there's something that has a lot of fiduciary oversight or a lot regulations associated with it, it can be really challenging to stay on top of that.

Cut to images of employees scooping ice cream and burning marshmallow topping and back to Zachary Davis.

[Off/Onscreen]

Zachary Davis: We have anywhere between eighty and a hundred and forty employees coming through our business. We also have seasonal employees that are not with us very long. They tend to be young. Some are in high school.

Cut to Deborah Lowe Muramoto.

Text: Deborah Lowe Muramoto, Women's Business Center

[Onscreen]

Exhibit E

REGISTER

LOGIN



Coming July 1!

California's retirement savings program is opening soon.

Employers can register any time after July 1.



Help your employees save for retirement

CalSavers Retirement Savings Program was designed to give employers a simple way to help their employees save for retirement, with no fees, no fiduciary responsibility, and minimal maintenance. If an employer has at least five employees and doesn't already offer a workplace retirement savings plan, they can register for CalSavers beginning July 1, 2019.

What you need to know

- Registering your business is easy
- There are no fees for employers to facilitate the program
- Employers serve a limited role: facilitate the program and submit participating employees' contributions via simple payroll deduction.
- Employees are responsible for their investment choices
- Employers cannot make contributions

What your employees need to know

- Their CalSavers account is a Roth IRA (after tax)
- The default savings rate is 5% of gross pay, and employees can change their rate at any time
- Employees will be auto-enrolled after 30 days and will begin saving through payroll contributions
- They can opt out at any time

Your role

Because we appreciate what it takes to run a business, we keep it as simple as possible when it comes to facilitating CalSavers.

Registration

We'll notify you when it's time for your business to register. If you'd like to be part of the pilot program, contact us today.

Account setup

Once you register, you'll need to add delegates or payroll representatives, create a payroll list and add employees.

Account management

After your account is set up, you'll move to maintenance mode – submitting contributions and adding new employees.

Pilot Program Ongoing

CalSavers is working with selected employers from around the state who indicated an interest in blazing a trail for a better savings future as participants in our pilot program. These participants are helping to shape the program for all other employers by offering feedback on their experience.

Employer registration begins July 1, 2019

Employers don't have to wait to begin helping their employees save for the future. Employers of all sizes can register for the program beginning July 2019, but no later than the deadlines shown below.

REGISTER	LOGIN
----------	-------

50+ employees

June 30, 2021

5 or more employees

June 30, 2022

Employer Assistance: (855) 650-6916

Employee Assistance: (855) 650-6916

clientservices@calsavers.com

treasurer.ca.gov/scib/



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The CalSavers Retirement Savings Program ("CalSavers") is an automatic enrollment payroll deduction IRA overseen by the California Statewide College Retirement Savings Investment Board ("Board"), a separate College Savings & Investing Services LLC ("CSIS") is the program administrator. ACSN and its affiliates are responsible for day-to-day program operations. Participants saving through CalSavers own and have control over their IRAs as provided in the Program Disclosure Booklet available at saves.calsavers.com. CalSavers is not sponsored by the employer and therefore the employer is not responsible for the plan or fiduciary as an employer.

CalSavers offers investment options selected by the Board. For more information on CalSavers' investment options go to saves.calsavers.com. Amount to deduct in CalSavers will vary with market conditions. Investments in CalSavers are not guaranteed or insured by the Board, the State of California, the Federal Deposit Insurance Corporation, or any other organization.

CalSavers is a completely voluntary retirement program. You may opt out at any time or reduce or increase the amount of your payroll contributions. If you opt out you can later re-enroll into CalSavers. Saving through an IRA will not be appropriate for all individuals. Employees' participation in CalSavers should not be considered an endorsement or recommendation by your employer of CalSavers, IRAs, or the investment options offered through CalSavers. IRAs are not exclusive to CalSavers and can be obtained outside of the program and contributed to outside of payroll deduction. Contributing to a CalSavers IRA through payroll deduction offers some tax benefits and consequences. You should consult your tax or financial advisor if you have questions related to taxes or investments. Your employer does not provide financial advice and you should not contact your employer for financial advice. Employers are not liable for decisions employees make pursuant to Section 100034 of the California Government Code.

Exhibit F



May 25, 2012

Robert J. Toth, Jr.
Law Offices of Robert J. Toth, Jr.
110 West Berry Street, Suite 1809
Fort Wayne, Indiana 46802

2012-04A
ERISA SEC.
3(2)

Dear Mr. Toth:

This is in response to your request for guidance regarding the applicability of Title I of the Employee Retirement Income Security Act of 1974 (ERISA) to a retirement savings program operated by 401(k) Advantage LLC (Advantage). Specifically, you ask whether the Department of Labor (Department) would view the Program as a single "employee pension benefit plan" within the meaning of ERISA section 3(2) where multiple unrelated employers adopt the Plan to provide retirement benefits to their employees.

The following summary is based on the materials and representations you provided in support of your request and should not be treated as factual findings by the Department. You represent that TAG Resources LLC (TAG), is a registered investment advisory firm based in Knoxville, Tennessee. Advantage is a limited purpose corporation formed to operate the 401(k) Advantage LLC 401(k) Plan. (Advantage Plan or Plan). The Plan is intended to be a single "multiple employer" 401(k) profit-sharing plan covering employees of Advantage as well as employees of other unrelated employers that adopt the Plan. The current participation agreement form describes each participating employer as acting "directly as an employer" and as a "co-sponsor" of the Advantage Plan. You indicate that there are currently over 500 unrelated employers participating in the Plan.

TAG is designated as the administrator, within the meaning of ERISA section 3(16), of the Plan. Advantage signs the Forms 5500 filed for the Plan as the "plan sponsor." You represent that Advantage is also the "named fiduciary" for the Advantage Plan, and "assumes the risk and liability associated with the trustee role and removes every adopting employer from the liability associated with that role." According to the Plan's 2010 Form 5500, the Plan had over 9,800 participants in the 2010 plan year and \$63,000,000 in net assets.

You have provided us with copies of several similar participation agreements, what appears to be an Advantage Plan document covering current participating employers, and an updated Plan document drafted to permit inclusion into the Plan of various Bermudian employers. The terms for prospective participating Bermudian employers are similar to those for currently participating employers, but the investment alternatives and service provider arrangements differ. There are no variations in the operative

directly from the assets of the Plan. We understand that this fee disclosure is not intended to be a complete disclosure for all expenses of the Plan and that TAG will “provide information related to fees and expenses to the Participating Employer and to Plan Participants in a manner as otherwise required by law of Plan Administrators.” There is no information in your material on compensation payable from the Plan to Advantage LLC as Plan trustee and named fiduciary.

Relevant Law, Analysis, and Conclusion

The term “employee pension benefit plan” is defined in section 3(2) of Title I of ERISA to include: “[A]ny plan, fund, or program . . . established or maintained by an employer or employee organization, or by both, to the extent that by its express terms or as a result of surrounding circumstances such plan, fund or program . . . provides retirement income to employees, or (ii) results in a deferral of income by employees for periods extending to the termination of covered employment or beyond . . .”

The term “employee organization,” defined in section 3(4) of ERISA, in pertinent part, includes “any labor union or any organization of any kind . . . in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan, or other matters incidental to employment relationships; or any employees’ beneficiary association organized for the purpose in whole or in part, of establishing such a plan.”

Section 3(5) of ERISA provides that the term “employer” means “any person acting directly as an employer, or indirectly in the interest of an employer, in relation to an employee benefit plan; and includes a group or association of employers acting for an employer in such capacity.”

The term “plan sponsor” is defined in section 3(16) of ERISA as (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Although the Advantage Plan appears to provide benefits described in ERISA section 3(2), to be an employee pension benefit plan, it must also be established or maintained by an employer, an employee organization, or both. The materials we reviewed give no indication that the Plan was established or is maintained by an employee organization within the meaning of section 3(4) of ERISA. Nothing in the documents we reviewed indicates that employees participate in Advantage (the named plan sponsor) or TAG (the plan administrator), nor do either of these entities constitute an “employees’ beneficiary

It has been the Department's consistent view that where several unrelated employers merely execute identically worded trust agreements or similar documents as a means to fund or provide benefits, in the absence of any genuine organizational relationship between the employers, no employer group or association exists for purposes of ERISA section 3(5). Based on our review of the information provided, there is no employment based common nexus or other genuine organizational relationship that is unrelated to the provision of benefits between Advantage or TAG and the employers of employees that benefit from the Plan, or among the different groups of employees that participate in the Plan.² Rather than acting in the interest of an employer with respect to the Plan, Advantage and TAG appear to be acting more as service providers to the plan, much like a third party administrator or investment advisor. As a result, in the Department's view, neither Advantage nor TAG would constitute an employer for purposes of section 3(5) of ERISA that is capable of sponsoring the plan as a single "multiple employer" plan.

This conclusion reflects the established judicial view that the person or group maintaining an "employee benefit plan" under ERISA must be tied to the employees or the contributing employers by genuine economic or representational interests unrelated to the provision of benefits. See *MDPhysicians & Associates, Inc. v. State Bd. Ins.*, 957 F.2d 178,185 (5th Cir.), cert. denied, 506 U.S. 861 (1992) ("the entity that maintains the plan and the individuals that benefit from the plan [must be] tied by a common economic or representation interest, unrelated to the provision of benefits." (quoting *Wisconsin Educ. Assoc. Ins. Trust v. Iowa State Bd.*, 804 F.2d 1059, 1063 (8th Cir. 1986))). These common employment-based interests distinguish an employee benefit plan from other entities that underwrite benefits or provide administrative services. The Department has long adhered to this interpretation of ERISA. See, e.g., Advisory Opinion 94-07A (it is the "commonality of interest" among the individuals that benefit from the plan and the party that sponsors the plan that "forms the basis for sponsorship of an employee welfare benefit plan"); Advisory Opinion 80-42A ("plans established and maintained by insurance entrepreneurs for the purpose of marketing insurance products to employers and employees at large are not ERISA plans."). In your submission, you assert that there is no need for a bona fide employer group or association or for any person to be acting indirectly in the interest of the direct employers because each employer who enters into a participation agreement with TAG to provide benefits to its employees through the Advantage Plan will be acting as a Plan "co-sponsor," and "acting directly on its own behalf" in separately adopting a "multiple employer" defined contribution plan for its own employees. As described above, the mere execution of identically worded trust agreements or similar documents by unrelated employers as a means to fund or provide benefits for their employees, is not a sufficient basis for concluding that the employers

² We note that any relationship between Advantage LLC as "sponsor" of the Advantage Plan, and the employees of participating employers is even more attenuated to the extent that the Advantage Plan permits participation as "employers" by entities themselves not acting directly as employers of the covered employees, such as unions acting on behalf of employers with whom they have collective bargaining agreements or PEOs acting on behalf of their client employers.

plan, section 3(1) of the Act and § 2510.3-1 and employee pension benefit plan, section 3(2) of the Act and § 2510.3-2.” This letter concerns only whether the Advantage Plan is an “employee benefit plan” under sections 3(2) and 3(3) of ERISA. For the reasons set forth above, in the Department’s view, it is not.

Nothing in your submission suggested that TAG, Advantage and the employers participating in the Plan would be a controlled group or corporations, a group of trades or businesses under common control, or otherwise have any substantial common ownership, control or organizational connections. See Advisory Opinion 89-06A (Department would consider a member of a controlled group which establishes a benefit plan for its employees and/or the employees of other members of the controlled group to be an employer within the meaning of section 3(5) of ERISA); Advisory Opinion 95-29A (employee leasing company may act directly or indirectly in the interest of an employer in establishing and maintaining employee benefit plan). This letter also does not address the circumstance where an employee pension plan is maintained by more than one employer as a result of a corporate merger, acquisition or divestiture transaction or other circumstance that involves a substantial economic, business, or representational purpose unrelated to provision of benefits to the employees of separate employers.³

This letter constitutes an advisory opinion under ERISA Procedure 76-1, and is issued subject to the provisions of that procedure, including section 10 thereof relating to the effect of advisory opinions. This letter relates solely to the application of Title I of ERISA to the arrangement that is the subject of your request and is not determinative of any particular treatment under the Code or any other federal or state law.

Sincerely,

Susan Elizabeth Rees
Chief, Division of Coverage, Reporting and Disclosure
Office of Regulations and Interpretations

³ A “substantial business purpose” test applies in the context of ERISA section 3(37) to address arrangements formed solely to obtain the benefits of being regulated as a multiemployer plan under ERISA. See 29 C.F.R. § 2510.3-37. The Department has also applied a “substantial business purpose” in evaluating whether a health benefit program should be treated as a single employer plan or as multiple employer welfare arrangement (MEWA) for purposes of section 3(40) of ERISA. See ERISA Information Letter, dated March 1, 2006, to Mike Kreidler, Washington State Insurance Commissioner (at www.dol.gov/ebsa/regs/ILs/il030106.html).

Exhibit G

CALSAVERS PROGRAM

Governed by the

**CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS
INVESTMENT BOARD**

INVESTMENT POLICY STATEMENT

Adopted
May 21, 2018

I. The CalSavers Program

The CalSavers Program (the “Program”) is a retirement savings program that enables participation through employee payroll contributions into an individual retirement account (“IRA”) governed by the California Secure Choice Retirement Savings Investment Board. The Program, authorized by Senate Bill 1234 in 2016, will operate at all times under the legal and statutory requirements of the State of California, as defined in Government Code Sections 100000-100050.

The Program will enable participants (“Participants”) to direct plan account balances among one or more investment options (“Investment Options”), including a default setting for Participants who do not actively select an Option.

II. Purpose of Investment Policy Statement

This Investment Policy Statement (“IPS”) is intended to enable the Board to make Program investment decisions according to an established process that reflects the Board’s set of Investment Beliefs (found in Appendix I).

This document outlines the underlying philosophies and processes for the selection, monitoring, and evaluation of the Investment Options offered to Participants, the Underlying Investments as defined herein, and the selected investment managers providing those Investments and fulfilling those Options (the “Underlying Managers”).

Specifically, this Investment Policy Statement:

- Defines the Program’s investment objectives.
- Defines the roles and responsibilities of various parties.
- Describes the types of Investment Options offered and the criteria applied for selecting these Investment Options and the Underlying Managers.
- Establishes investment procedures, performance measurement standards, and monitoring procedures of the Investment Options offered.

This IPS will be reviewed at least annually and will be amended as needed to reflect Program growth, Program design changes, or other factors deemed to be material by the Board.

III. Investment Objectives

The overarching objective of the Program is to promote greater retirement savings opportunities for California’s private-sector workers who currently lack access to employer-sponsored retirement plans, by providing access to a professionally managed, low-cost, portable retirement savings vehicle. The primary investment objective of the Program is to offer a limited number of Investment Options, appropriately suited for IRA accounts, to meet the savings goals of Participants based on varying levels of risk tolerance.

IV. Roles and Responsibilities

The Board, with input from Staff and Investment Consultant as needed, shall be responsible for:

- Establishing and maintaining the IPS.
- Approving the asset classes for Investment Options.
- Selecting and replacing/terminating the specific Underlying Manager(s) and vehicle (e.g., Mutual Fund, Exchange-Traded Fund (ETF), Separate Account, as each is defined in Appendix III to this IPS) to fill each of the Investment Option asset class categories.
- Receiving and reviewing quarterly performance reports to evaluate the Program's Investment Options and Underlying Manager performance.
- Selecting and overseeing contractors, as appropriate, including, but not limited to, the Program Manager/Administrator, Investment Consultant and Underlying Manager(s).

The Staff shall be responsible for, among other things:

- Preparing investment-related agenda items and topics for Board meetings.
- Requesting and reviewing Investment Option performance and cash flow data from the Program Manager/Administrator.
- Assisting the Board in carrying out its investment strategy by confirming that the Underlying Managers' investment criteria is being met, based on analysis from the Investment Consultant.
- Providing a summary for the Board of any issues with contractors which need Board attention or consideration.
- Overseeing the production of educational materials, in plain, accessible language to ensure that Participants receive appropriate financial and investment information during the account opening and managing process.

The Investment Consultant shall be responsible for the Scope of Work set forth in its contract with the Board, including but not limited to:

- Developing the IPS and Investment Beliefs (included as Appendix I), for Board and Staff approval.
- Assisting the Board with initial selection of Investment Options and Underlying Managers, monitoring Investment Options and Underlying Managers, and making recommendations to the Board and Staff for changes as needed, in accordance with Section VII.
- Providing performance reporting to Staff on a monthly basis and to the Board on at least a quarterly basis, for all Investment Options.
- Providing investment education to the Board as needed.

The Program Manager/Administrator shall be responsible for the Scope of Work set forth in its contract with the Board including, but not limited to:

- Creating the ability for the change of Investment Options, as well as the Underlying Managers and Underlying Investments within the Program, at the Board's direction.
- Providing account balance and investment performance reporting for Program Participants.
- Providing financial and investment-related educational materials in plain, accessible language for Participants.

V. Investment Options

An Investment Option may be added or removed from the Program lineup, based on the perceived needs and utilization of the Program Participants. Other factors, including industry best practices and new or evolving research may influence the Investment Options chosen for the lineup. The intent of the Board is to select Investment Options that will be retained in the Program lineup for the long term, making changes only when necessary for the effectiveness of CalSavers. The Default Investment Option shall be chosen to provide Participants who do not make an investment election a reasonable mix of assets to help them achieve their retirement goals over time.

Default Investment Option: The Board has determined for those Participants who do not make an affirmative election, that the first \$1,000 shall be invested in a Capital Preservation Option as the Stage 1 Default Investment Option, characterized by low risk. Thereafter, any additional contributions will be made to the Stage 2 Default Investment Option. The Stage 2 Default Investment Option will be the Target Date or Target Risk suite of investment options for contributions in excess of \$1,000. It is important to note that Participants who make an active election may choose to allocate all contributions, including the first \$1,000, to the investment option of their choice.

The Board intends to offer a limited number of Investment Options at launch, in keeping with its belief that simplicity is the key to the Program's success. Not all of the following Investment Options may be offered at all times within the Program, and each may be subject to specific investment criteria or restrictions established by the Board. The Program may offer additional or different Investment Options in the future, at the discretion of the Board. A full list of the specific Investment Options, including the Underlying Manager and vehicle (e.g., mutual fund, ETF, separate account, referred to as the "Underlying Investment") utilized to fulfill each Option, and the benchmarks for each Option, can be found in Appendix II.

Potential Investment Options include:

- A Capital Preservation Fund, with the primary objective of seeking investment

safety and liquidity.

- A Core Bond Fund, with the primary objectives of capital preservation with the potential for achieving income, while allowing for appreciation over time.
- A Global Equity Fund, with the primary objective of providing exposure to the equity markets, composed of stocks in the U.S. and abroad.
- A Target Date or Target Risk Suite of Funds, with the primary objective of constructing a diversified portfolio of stocks and bonds that either adjusts according to a Participant's retirement timeframe or resembles the risk profile.
- An Environmental, Social, and Governance (ESG) Fund, with the primary focus on social and environmental responsibility.

All Investment Options, and Underlying Managers, and their respective benchmarks can be found in Appendix II.

VI. Selection of Underlying Managers

The Program will offer Investment Options for Participants to diversify their IRA account balances.

In selecting the Underlying Managers to fulfill the Investment Options provided by the Program, the following characteristics shall be examined by the Investment Consultant, and utilized to recommend the Underlying Managers to Staff and the Board:

- Investment approach (active vs. passive, fundamental vs. quantitative).
- Investment process and personnel, focusing on stability and capability of the team.
- Fees, including, but not limited to, "revenue sharing."
- Risk-adjusted returns over various time periods.
- Style consistency throughout market cycles.
- General suitability for individual investors, and specific suitability for the CalSavers Program.

VII. Underlying Manager Monitoring/Watch List

An Underlying Manager will be evaluated for their ability to meet the following objectives, and may be terminated/replaced when the Board, in consideration of the recommendation from the Investment Consultant, has determined that the Underlying Manager is no longer able to:

- Achieve performance and risk objectives (generally meeting index returns minus fees for passive strategies or exceeding benchmark returns for active strategies) over a full market cycle of 3-5 years.
- Consistently apply their stated investment process.

- Comply with any applicable contract and investment criteria, which will detail the appropriate benchmark for performance evaluation and other criteria restricting the Underlying Manager's investments
- Provide Participants with suitable diversification.
- Comply with reporting requirements.
- Maintain a stable organization and retain key relevant investment professionals.

The Board may add, remove or replace the Underlying Managers and/or Underlying Investments offered within Investment Options at its discretion, and for reasons not included in this IPS.

A terminated Underlying Manager shall be replaced according to one of the following approaches:

- Combine existing funds with another Underlying Investment available in the Program by the mapping or transfer of assets.
- Replace with a new Underlying Manager by the mapping or transfer of assets.

Replacement of a terminated Underlying Manager will follow the criteria outlined in Part VI, Selection of Underlying Managers.

Underlying Managers will be evaluated on an ongoing basis for adherence to their stated objectives, based on both qualitative and quantitative criteria. When Managers fail to meet one or more of these criteria, the Investment Consultant shall place the Underlying Manager on a "Watch List", and report to the Board quarterly the status of the Watch List, and recommend any action that is to be taken with respect to managers on the Watch List. There is no specific time period for Managers to remain on Watch List; However, Underlying Managers will be reviewed on an individual basis, and recommended for removal by the Investment Consultant once sufficient progress has been made to meet the criteria above.

Qualitative Assessment

The qualitative aspect of each Underlying Manager will be monitored on an ongoing basis by the Board, Staff and Investment Consultant. A significant and potentially adverse event related to, but not limited to, any of the following qualitative issues or events may either initiate a recommendation to place the Manager on the Watch List. Qualitative assessments will focus on:

- Departure of key personnel
- Significant loss of clients or assets under management
- Financial instability
- Significant change in organizational or ownership structure
- Investment strategy or style deviation

- Apparent breach in ethical behavior or integrity
- Significant and persistent lack of responsiveness to requests
- Contravention of any term or condition of any applicable contract not corrected within 30 days of the breach
- Continued violations of the investment guidelines, if applicable
- Extraordinary regulatory action or other proceeding affecting the manager's ability to perform its duties under the contract
- Any issue believed to undermine the Board, Staff, or Investment Consultant's confidence in the Manager

Quantitative Assessment

In order to evaluate Manager skill, trailing and rolling assessments of excess returns will be evaluated by the Investment Consultant. The Board and Staff reserve the right under this IPS to pursue any course of action in response to absolute, relative, historic or perceived future investment performance. Notwithstanding the foregoing, the following measurement criteria will generally apply to quantitative assessments of Manager performance:

- For passive Underlying Managers, over the most recent trailing three-year or five-year period, an Underlying Manager's net return deviates from the assigned benchmark by more than the investment management fee.
- For active Underlying Managers, over the most recent trailing three- or five-year period, the Underlying Manager's net return lags the assigned benchmark AND its peer ranking falls below its respective Peer Universe median. The term Peer Universe, as defined here, is a group of like managers defined by a specific asset class or investment style. The Investment Consultant will define the Peer Universe appropriate for each Underlying Manager upon selection and provide reporting relative to the Peer Universe in Quarterly reports.

VIII. Monitoring Costs

Monitoring of investment-related costs shall occur no less than annually by the Staff and Investment Consultant, and shall focus on the investment management costs borne by Participants.

IX. Participant Investment Education and Communication

The Program will regularly communicate to Participants their responsibility for investment decisions, permit changes among Investment Options with reasonable frequency, and provide investment-related educational materials that will enable Participants to make informed financial and investment-related decisions.

X. Conflicts of Interest

All members of the Board, as well as all service providers to CalSavers, are expected to maintain independence with respect to the recommendations, advice, and decisions that are made regarding the CalSavers Program. It is expected that the Investment Consultant, Staff, Board members, and service providers act as fiduciaries, in the best interest of Program Participants at all times.

XI. Coordination with the CalSavers Program Legislation

Notwithstanding the foregoing, if any term or condition of this IPS conflicts with any term or condition in the CalSavers legislation or statutory requirements, the terms and conditions of the legislation or statutory requirement or applicable law shall control.

APPENDIX I

INVESTMENT BELIEFS

Investment Beliefs were developed to reflect the Board's core outlook for the investments within the CalSavers Program, and will be reviewed at least annually, along with the Investment Policy Statement.

Investment Beliefs:

1. **Transparency:** It is essential to provide transparency across the Program, including investment- and Program-related costs.
2. **Simplicity:** We believe in Program simplicity across all facets of CalSavers; from access to structure, from education to investment offerings.
3. **Impact of Savings:** Providing a simple vehicle for saving and investing for retirement is critical to the future financial security of retirees.
4. **Impact of Markets:** Given the inherent risk in markets, providing security for Participant assets in the early stages of investing is crucial. Over time, we believe in offering both low-risk investment options and higher risk investment options for retirement portfolios.
5. **Investment Costs:** Costs directly affect retirement outcomes, and keeping them low should be integral to our Program structure.
6. **Breadth of Participant Options:** Simplicity is the key to success for the Participants in a first-time retirement vehicle, and the investment lineup should reflect that goal.
7. **Active vs. Passive Investments:** Passive investments should be the primary investment tool for our Participants. As the Program matures, there may be opportunities for actively managed funds to play a secondary role.
8. **Program Design:** Plan design matters and will influence the success of the CalSavers Participants' ability to grow their investments over time.
9. **Financial Education:** Participants need access to simple, relevant, financial and investment education.
10. **ESG/Socially Responsible Investments:** Socially and environmentally responsible investing is an issue important to some Participants, and an Investment Option reflecting that belief should be offered at some point.

APPENDIX II
INVESTMENT OPTIONS AND BENCHMARKS

As of May 21, 2018

Investment Option Categories¹	Underlying Manager	Underlying Investments	Benchmark	Vehicle Used	Expected Risk
Capital Preservation Fund	TBD	TBD	U.S. Treasury 3-Month	TBD	Lower
Core Bond Fund	TBD	TBD	Bloomberg Barclays U.S. Aggregate	TBD	Lower
Global Equity Fund	TBD	TBD	MSCI ACWI Index	TBD	Higher
Target Date or Target Risk Fund	TBD	TBD	TBD based on Target Series	TBD	Risks vary by Fund
Environmental, Social, Governance Fund	TBD	TBD	TBD	TBD	Moderate

¹ Appendix II will be modified as Investment Options are selected through the RFP process, and full descriptions of the Underlying Investments and Underlying Managers will be included.

APPENDIX III

GLOSSARY

Glossary of Terms:

Active Investing: An investing strategy that attempts to outperform the market, with portfolio managers buying only those stocks represented within a specified index, that the portfolio manager believes are superior and could outperform.

Alpha: Alpha is an estimate of the contribution to investment performance attributable to the manager's selection of securities. It is calculated by subtracting the manager's return from the benchmark return.

Annual Return: The total return of a security over a specified period, expressed as an annual rate of interest.

Annualized: A figure (as in a percentage) calculated by a formula to find the "average" performance per year for a period greater than one year.

Assets Under Management (AUM): Measures the total market value of all the financial assets which a financial institution such as a mutual fund, manages on behalf of its clients and themselves.

Basis Points (bps): Refers to a common unit of measure for interest rates and other percentages in finance. One basis point is equal to 1/100th of 1%, or 0.01%. For example, if you have an account balance of \$10,000 and the basis point fee charged is 20 basis points (or $20 \times 0.01\% = 0.02\%$), the management fee assessed on the total account value would equal \$20 (or $0.02\% \times \$10,000$).

Bear Market: A market characterized by a trend of falling prices.

Benchmark: A standard against which the performance of a security, mutual fund or investment manager can be measured. Generally, broad market and market-segment stock and bond indexes are used for this purpose.

Beta: A measure of the volatility of a stock relative to the overall market. A beta of less than one indicates lower risk than the market; a beta of more than one indicates higher risk than the market.

Bull Market: A market characterized by a trend of rising prices.

Collective Investment Trust (CIT): Also known as a collective investment fund (CIF), are similar to mutual funds in that they pool investor money, but they are only available to qualified retirement plans, which excludes IRAs. They are sponsored by a bank or trust company, and are regulated by the Office of the Comptroller of the Currency rather than the Securities and Exchange Commission, which oversees mutual funds. CITs are gaining traction among retirement plans, particularly because of lower costs.

Commingled Fund: A fund consisting of assets from several accounts that are blended together. Investors in commingled fund investments benefit from economies of scale, which allow for lower trading costs per dollar of investment, diversification and professional money management.

Common Stock: Ordinary capital stock (representing ownership) in a company. Common stock does not enjoy the special privileges of preferred stock, but has voting rights.

Compounding of Returns: The cumulative effect that a series of gains (or losses) have on a portfolio or account balance over time. Basically, if any gains are reinvested back in the portfolio, the portfolio can grow at a more rapid rate through compounding.

Coupon Income (Average Coupon): The annual coupon payments of a bond divided by the par value.

Current Yield: The annual coupon payments of a bond divided by the market price.

Default Investment Option (DIA): Allows the employer or plan sponsor to automatically enroll, or “default” participants and direct their contribution dollars to be invested in an investment option selected for the plan. These Default Options are typically diversified portfolios designed to provide exposure to both equity and fixed income assets. The participant is not obligated to participate and can choose to opt out of the Default Option at any time, based on the liquidity constraints of the Program. It is important to note, that the participant is effectively making an investment choice (and defaulting to contributions through the DIA), despite not actively directing funds.

Dollar Cost Averaging: The concept of buying a fixed dollar amount of stocks and/or bonds over time, so that when prices are high, you are buying “less” shares, and when prices are low, you are buying “more” shares.

Dividend: A cash or other distribution to preferred or common stockholders.

Equity: Ownership or proprietary rights and interests in a company. Synonymous with common stock.

ESG (Environmental, Social and Governance): A generic term used in capital markets and by investors to evaluate corporate behavior and to determine the future financial performance of companies.

Exchange-Traded Funds (ETF): A marketable security that tracks an index, commodity, bonds, or a basket of assets like an index fund. Unlike mutual funds, an ETF trades like a common stock on a stock exchange. ETFs experience price changes throughout the day as they are bought and sold. ETFs typically have higher daily liquidity and lower fees than mutual fund shares, making them an attractive alternative for individual investors. Because it trades like a stock, an ETF does not have its net asset value (NAV) calculated once at the end of every day like a mutual fund does.

Glidepath: Refers to a formula that defines the asset allocation mix of a target date fund, based on the number of years to the target date. The glide path creates an asset allocation that typically becomes more conservative (i.e. includes more fixed-income assets and

fewer equities) the closer a fund gets to the target date.

Gross of Fees Performance: Performance presented before fees are taken into account, thereby overstating the actual, final performance return. See also “Net of Fees Performance”.

Index: A statistical yardstick composed of a basket of securities with a defined set of characteristics. An example of this would include the "S&P 500" which is an index of 500 stocks.

Interest-Rate Risk: When interest rates rise, the market value of fixed income securities (such as bonds) declines. Similarly, when interest rates decline, the market value of fixed income securities increases.

Market Capitalization: The market value of all outstanding shares of common stock of a company. Derived by multiplying the number of shares outstanding at month- end by the month-end closing price of the security.

Maturity: The date on which a loan, bond, mortgage or other debt security becomes due and is to be paid off.

Modern Portfolio Theory: The theoretical framework for designing investment portfolios based upon the risk and reward characteristics of the entire portfolio. The major tenet of the theory holds that reward is directly related to risk, which can be divided into two basic parts: 1) systematic risk (portfolios' behavior as a function of the market's behavior), and 2) unsystematic risk (portfolios' behavior attributable to selection of individual securities). Because un-systematic risk can be largely eliminated through diversification, the portfolio will be subject principally to systematic risk.

Mutual Fund: An investment vehicle that is offered by an Underlying Manager, which brings together money from many different groups (individuals, institutions, or others) and invests in stocks, bonds, or other assets. Strikes a NAV (Net Asset Value) daily, and is SEC-registered.

Net Asset Value (NAV): NAV is a fund's price per share, or per each dollar invested. NAV per share is computed once a day based on the closing market prices of the securities and is calculated by dividing the total value of the fund's portfolio, less any liabilities, by the number of fund shares outstanding.

Net of Fees Performance: Return of the investment after all fees, expenses and taxes.

Par Value: The face value of a bond, which determines maturity value. For a stock, it is the value on the corporate charter.

Passive Investing: An investing strategy that tracks a market-weighted index or portfolio. The most popular method is to mimic the performance of a specified index by buying an “index fund”.

Peer Universe: A group of similar investment strategies that are aggregated to provide a performance benchmark/comparison. For example, if a U.S. Bloomberg Barclays Aggregate Index Fund is offered on the lineup, a likely “Peer Universe” would be “Peer Core Bond” funds, where the median return would be utilized. The source for Peer

Universes is typically Morningstar, Evestment Alliance, or InvestorForce (or other industry standard providers).

Price/Earnings Ratio: A popular measure of relative stock value and investor expectations of future earnings growth. Calculated by dividing the current month end stock price by the latest 12-months reported earnings per share.

Recession: A decline in total physical output that lasts six consecutive months or more. A growth recession is marked by a six-month or longer slowdown (but no decline) in the growth rate.

Return Correlation: The relationship between the returns on investments. A negative return correlation between two investments means that most of the time when investment A has a positive return, investment B will have a negative return.

Risk-vs.-Return: Risk measures the probability of financial loss. Investors often compare risk, as measured by standard deviation of returns, to historical or expected return when making investment decisions. Typically, investors demand higher returns for investments they consider more risky.

Separate Account: Also known as individually managed accounts, these are reserved for investors whose portfolios are large enough to warrant a separate account with a specific investment mandate. Two primary advantages to a separate account structure are 1) withdrawals from other investors do not negatively impact performance as all transactions are a result of selling the investor's own securities and 2) improved transparency and easier performance reporting as the entire account belongs to the investor and there is no need to divide securities or their associated returns on a proportionate basis.

Standard Deviation: Statistical measure of the degree to which an individual value in a probability distribution tends to vary from the mean of the distribution. In portfolio theory, the past performance of securities is used to determine the range of possible future performances and a probability is attached to each performance. The standard deviation of performance can then be calculated for each security and for the portfolio as a whole. The greater the degree of dispersion, the greater the risk.

Target Date Funds: Single diversified, multi-asset class strategy utilizing a "glidepath" that systematically reallocates assets to become more conservative over time based upon a Participant's targeted retirement date.

Target Risk Funds: Suite of diversified, static multi-asset class strategies with varying objectives providing Participants investment options based upon stated risk tolerance, time horizon, circumstance, and investment objectives.

Total Return: The aggregate increase or decrease in the value of the portfolio resulting from the net appreciation or depreciation of the principal of the fund, plus or minus the net income or loss experienced by the fund during the period.

Treasury Bill: A non-interest bearing obligation, fully guaranteed by the U.S. Government, payable to the bearer. Bills are sold on a discount basis so that the income

is the difference between the purchase price and the face value.

Treasury Bond: A coupon security of the U.S. Treasury which may be issued with any maturity but generally carries a maturity of more than 10 years.

White-label Funds: Branded Investment Options that have no reference to a fund company/investment manager. Instead, they are branded by their asset class or objective. They can be constructed as either a single investment strategy, or as a portfolio of multiple underlying investment vehicles structured to the fund's objectives. They can also contain a mix of passive and actively managed strategies. For example, "CalSavers Global Bond Fund" might include a mix of different managers selected by the Board.

Yield: The rate of annual income return on an investment expressed as a percentage. Income yield is obtained by dividing the current dollar income by the current market price of the security.

Yield Curve: A graphic depiction of interest rates across all maturities, 0-30 years. The shape of the curve is largely influenced by the Federal Reserve Policy.

Exhibit H

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 05/02/2012
POSITION: Oppose

BILL NUMBER: SB 1234
AUTHOR: De Leon, Kevin

BILL SUMMARY: Retirement savings plans.

This bill would create the California Secure Choice Retirement Savings Program (Program) as a retirement savings vehicle for private sector workers who do not have access to retirement plans through their jobs. The Program would be administered by a seven-member board chaired by the state Treasurer.

FISCAL SUMMARY

This bill would create a retirement plan for private-sector employees that is intended to be self-sustaining. However, this bill has provisions that allow for an appropriation, which would likely be from the General Fund, to support the Program.

The California Secure Choice Retirement Savings Investment Board (Board) would be required to first conduct an initial market and feasibility study to determine if the Program is self-sustaining. Funding for the study would come from a non-profit, a private entity, federal funding, or an appropriation in the annual Budget Act. A similar bill introduced in previous legislative sessions would have required the California Public Employees' Retirement System (CalPERS) to conduct such a study and manage a retirement fund for private-sector employees. CalPERS estimated the cost of producing a feasibility study would be \$1.7 million. (This bill does not require CalPERS' participation in the Program.)

If the Board determines the Program is self-sustaining, the Board then would need to, and be authorized to, receive outside funding or a budget appropriation until the asset base is built up to adequately fund administrative costs out of earnings. In previous legislation, CalPERS estimated that a similar program could cost \$1.2 million in administrative and operating costs during the initial start-up years, not including marketing and advertising. By way of comparison, the state's Scholarshare Investment Board, from which the Board in this bill is modeled, manages a college-savings program with a 9-person staff and \$2.4 million budget that is paid out of investment earnings.

Annual administrative costs also would be capped at 1 percent of assets, which may prove to be unworkable based on mandatory insurance costs. The federal Employee Retirement Income Security Act (ERISA) requires retirement-system sponsors to make annual premium payments to the Pension Benefit Guarantee Corporation (PBGC), a U.S. agency, to provide continued benefits in case the plan is closed and assets are depleted. The Program could be required to make payments to the PBGC under ERISA. The 2012 rates are \$9 per worker or retiree in multiemployer plans. The author's office estimates that 7 million people would be affected by this bill. Assuming those workers are lower earners and make 3 percent payroll contributions, the Program could have \$6.6 billion invested in the first year, according to the author's office. Based on an initial investment of \$6.6 billion in the first year, the PBGC payments would amount to \$63 million annually, or nearly 1 percent of Program assets. The bill also specifies that the Board must secure private underwriting to cover shortfalls if weak investment earnings do not provide sufficient income to provide the guaranteed interest rate to members' accounts. Life insurance companies

Analyst/Principal (0933) K.Martone	Date	Program Budget Manager Diana Ducay	Date
Department Deputy Director			Date
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

BILL ANALYSIS--(CONTINUED)

Form DF-43

AUTHOR**AMENDMENT DATE****BILL NUMBER**

De Leon, Kevin

05/02/2012

SB 1234

FISCAL SUMMARY (continued)

that offer guaranteed, conservative returns on annuity investments typically charge annual premiums of approximately 1 percent of assets.

Despite the bill's stated intent to shield the state from financial liability, the state ultimately could be responsible for benefit payments under federal law, putting the state at serious risk of billions of dollars in unfunded liabilities if investment performance falters under the Program. High administrative costs, particularly in initial years as the asset base is built up, puts additional pressure on the Board to achieve investment returns over and above what is guaranteed to be credited to employees' accounts, in order to cover insurance premiums and overhead. Though the stated interest rate is expected to be relatively low, the investment strategy needed will likely include a more aggressive and volatile asset mix. This, in turn, puts even more risk on the state to cover losses. The California State Teachers' Retirement System, for example, offers members a similar cash-balance program that guarantees a 3.75 percent return on members' accounts but invests the assets in the same strategy as its pension fund to achieve 7.5 percent earnings. Though the plan was fully funded as of June 30, 2011, it has recorded unfunded liabilities in 5 of its 11 years of existence, and as high as \$1.5 billion. Under the cash-balance model, employees withdraw their entire account balance upon retirement, which can quickly drain assets and put additional strain on the system. Though the author is attempting to transfer the liability to insurance companies, there is risk that an insurance company will become insolvent and will not be able to pay claims.

This bill also would require the Employment Development Department (EDD), through its investigation and audit function, to ensure that eligible employers are offering the program to employees. EDD would be required to fine eligible employers that fail to offer the program a penalty of \$1,000 per every employee unless remedied within 90 days of being notified of the violation. EDD also would be required to create an opt-out process for employees. EDD estimates \$465,000 in one-time costs for mailing and form production costs. Because the bill requires EDD to absorb enforcement costs as part of its existing investigation and audit function, EDD has not identified additional costs for this activity. This provision may generate additional workload and require additional staffing.

COMMENTS

Finance is opposed to this bill because it could create pressure on the General Fund to pay for start-up and administrative costs for the Program should outside funding fail to materialize. The General Fund is unable to support new programs at this time. This bill also establishes a new board at a time when the Administration is focusing on reducing the size of government.

Additionally, this bill could create a multibillion-dollar liability for the state if investment returns fail to reach cover the guaranteed rate of return and administrative overhead. All private-sector, defined-benefit plans, including cash-balance plans, operate under federal ERISA requirements, which hold plan sponsors responsible for benefit payments, among other fiduciary obligations. Governmental pension plans for public employees are exempt from ERISA and operate under state laws. Whether a state-sponsored, defined-benefit plan for private employees would fall under ERISA requirements is an open question subject to legal interpretation.

This bill would expand the state's role into private sector retirement policy, which is historically the domain of the federal government. Efforts to strengthen private sector retirement security could be pursued through Congress. Existing federal law also provides for a variety of individual retirement accounts by which employers and private citizens can save for retirement.

BILL ANALYSIS--(CONTINUED)

Form DF-43

AUTHOR**AMENDMENT DATE****BILL NUMBER**

De Leon, Kevin

05/02/2012

SB 1234

COMMENTS (continued)

While a conservative-growth retirement fund may be appealing to some employees, the compulsory nature of the Program and low guaranteed yields would limit investment choices for employees who may have a higher threshold for risk and desire a more aggressive investment strategy. Because the Program is required for businesses that do not offer retirement savings plan to employees, there is nothing to prevent a business that currently offers its employees a more generous retirement plan from dropping it in favor of the state-sponsored plan. Additional burdens would be placed on businesses to administer the payroll deduction.

Specifically this bill:

- Establishes the California Secure Choice Retirement Savings Trust for the stated purpose of promoting greater retirement savings for California private employees in a convenient, voluntary, low cost, and portable manner.
- Creates a seven-member California Secure Choice Retirement Savings Investment Board to administer the trust. The Board would be composed of the Treasurer (chair), Director of Finance, Controller, an individual with retirement savings and investment expertise appointed by the Senate Rules Committee, a small business representative and a public member each appointed by the Governor, and an employee representative appointed by the Assembly Speaker. The Board would hire investment managers to oversee assets in the trust. CalPERS would be authorized, but not required, to bid on an investment management contract to invest the Program's assets.
- Requires any private business with five or more employees and that do not offer an employer-sponsored retirement plan, to establish a payroll deposit retirement savings arrangement to the Program.
- Provides that employers with more than 100 employees would be required to make the plan available to employees within 3 months after the Board opens the Program for enrollment. Employers with more than 50 employees would have 6 months, and employers with more than 5 employees would have 9 months to establish the payroll deduction.
- Creates nominal accounts for employees to make contributions. Employees would not manage their individual accounts; the accounts would be pooled, managed professionally, and credited at a stated interest rate, adjusted annually by the Board, and compounded daily. The stated interest rate would likely be tied to a 30-year U.S. Treasury bond rate. Employees would receive the balance of the account upon retirement.
- Mandates participation for employees unless they opt out of the Program through an EDD exemption form. The employee would be required to elect to opt out every 24 months or the employee would be automatically re-enrolled.
- Sets the default contribution rate for employees at 3 percent of salary or wages. The Board may adjust the contribution amount between 2 to 4 percent. Employer contributions would be optional.
- Stipulates that all costs of administration of the trust shall be paid out of the administrative fund, from earnings on deposits. The provisions of the bill become operative only if funds are made available through a nonprofit, private entity, or federal funding, or a state appropriation, in amounts sufficient to allow the Board to study, develop, and obtain the approvals necessary to implement the Program.
- Limits expenditures from the administrative fund to one percent of the total Program fund.

BILL ANALYSIS--(CONTINUED)

Form DF-43

AUTHOR	AMENDMENT DATE	BILL NUMBER
De Leon, Kevin	05/02/2012	SB 1234

COMMENTS (continued)

- Directs the Board to conduct a market analysis to determine the feasibility of the Program. Requires the Board to determine, through the study, if the Program is self-sustaining and report the finding to various legislative committees and the Director of Finance.
- Provides that the state “shall have no liability for the payment of the benefit” and requires the Board to secure insurance against investment losses.
- Creates a reserve account from excess earnings that can be used to credit accounts if the stated interest rate cannot be met from investment earning or to credit accounts with additional earnings when there is an actuarial surplus.
- Authorizes EDD, beginning January 1, 2014, to fine employers who fail to make the program available. The fine would be \$1,000 per employee following a 90-day warning period.
- Requires the Board to issue an annual audited financial report to the Governor, Controller, State Auditor, and Legislature.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)					Fund Code
	LA	(Dollars in Thousands)					
	CO	PROP	FC	2011-2012 FC	2012-2013 FC	2013-2014	
0950/St Treasurer	SO	No			---- See Fiscal Summary ----		0001
1900/PERS	SO	No			---- See Fiscal Summary ----		0001
7100/EDD	SO	No	A	-- C	465 A	--	0001