PolicyLink

March 11, 2016

John Chiang, State Treasurer and Chair
Christina Elliot, Acting Director
California Secure Choice Retirement Savings Board
915 Capitol Mall, Room 110
Sacramento, CA 95814
Fax: (916) 653-3125

RE: Comments on *Final Report to the California Secure Choice Retirement Savings Investment Board*

Dear Treasurer Chiang and Director Elliott:

PolicyLink would like to thank the California Secure Choice Retirement Savings Investment Board ("Board") for the opportunity to comment on Overture Financial's *Final Report to the California Secure Choice Retirement Savings Investment Board* ("Report") and for its ongoing leadership in developing the California Secure Choice Retirement Savings Program ("Secure Choice"). We would also like to commend Overture Financial on the *Report* and the extensive research and analysis that led to its creation.

Overall, the *Report*'s recommendations, if accepted, would provide a simple, easy-to-use retirement savings program that balances the goal of maximizing retirement income while limiting risk for employees. Nonetheless, several of the *Report*'s recommendations raise concerns and should be carefully scrutinized and, in some cases, rejected by the Board. This letter briefly examines the *Report*'s recommendations in the following areas: automatic escalation of contribution rates, pre-retirement withdrawals, worker education, and the statutory provision mandating the collection of employee signatures prior to enrollment. It also discusses the potential impact of Secure Choice accounts on participating employees' eligibility for public benefits.

Automatic Escalation of Contribution Rates

The *Report* recommends that the California Secure Choice Retirement Savings Trust Act ("Act") be amended to allow the Board to automatically increase Secure Choice IRA contribution rates to 10%, in increments of 1% per year.[1] We are concerned that this recommendation could cause participants to *unknowingly* contribute more money to their accounts than they can afford.

According to the *Report*, the median income of Secure Choice-eligible employees is only $23,000.[2] With such a small amount of income, many program participants, after factoring in basic needs like housing, food, and transportation, are likely to have difficulty contributing at even the *Report*'s recommended 5% default rate. At the same time, because the recommendation proposes that rates increase automatically, program participants, many of whom may not be accustomed to monitoring a savings or retirement account, may be unaware that their contribution rates are climbing to unaffordable levels. This could be problematic for workers who are living paycheck to paycheck and for whom every dollar earned is essential.

[1] Overture Financial, *Final Report to the California Secure Choice Retirement Savings Board* (February 9, 2016), 7, 17.
[2] Ibid., 19.

In light of these concerns, we urge the Board to reject the recommendation. We also strongly encourage the Board to establish a notification process that informs program participants prior to any change in their contribution rates. The notice should provide sufficient time for employees to fully consider the potential impact of a rate increase on their finances and remind them of their right to determine their contribution rates.

Hardship Certification Requirement for Pre-Retirement Withdrawals

The *Report* recommends that employees be required to "self-certify hardship" before withdrawing funds from their accounts.[3] We urge the Board to reject this recommendation, for three reasons. First, it would treat Secure Choice IRAs differently than normal IRAs, without adequate justification. On its face, the recommendation would prevent program participants from withdrawing funds from their accounts, unless they certify that they are facing hardship. Neither a Roth IRA nor a Traditional IRA imposes such a requirement. The *Report* does not explain why the rules governing withdrawals from Secure Choice IRAs should differ from those that apply to other IRAs, although it notes that limiting withdrawals will maximize retirement income. Nor does it define hardship or provide details about the certification process. While we agree that limiting withdrawals could boost retirement savings for program participants, the *Report* does not demonstrate why that fact alone justifies treating Secure Choice accounts differently than other IRAs. The Board should not accept a recommendation that represents such a significant departure from normal IRA rules without a more robust justification and explanation of what the certification process would entail.

Secondly, the "hardship" requirement would undermine a key feature of Roth IRAs, the default account type recommended by the *Report*. A chief benefit of Roth IRAs is the relative ease with which funds can be withdrawn from them prior to retirement. Contributions to Roth IRAs, may be withdrawn, at any time and for any reason, without taxes or penalty, and account holders can deduct investment earnings tax and penalty free in certain circumstances. The flexibility to withdraw funds easily would be especially valuable for Secure Choice participants who, due to limited income, are likely to face financial emergencies that require them to access their retirement savings. By imposing an additional requirement on the withdrawal of funds from Secure Choice IRAs, the recommendation would make it more difficult for families to draw down their funds in an emergency.

Finally, mandating that workers certify hardship to withdraw funds could, as the *Report* states, lower program participation rates, because "a significant share of eligible workers would be disinclined to participate if they cannot access their funds in emergencies."[4] If the Board adopts the recommendation, it should ensure that the criteria for demonstrating hardship are so easily met that withdrawing funds from Secure Choice IRAs is not more difficult than deducting money from IRAs operating under typical rules. Moreover, the Board should give the public a meaningful opportunity to provide input on the definition of "hardship" under the law and the design of the certification process.

Worker Outreach Program

The *Report* recommends that the Board partner with worker organizations, unions, community organizations, and asset building groups to develop and implement a worker outreach program that focuses on educating employees.[5] We appreciate the *Report*'s emphasis on education and agree that the Board should partner with non-governmental entities to develop the outreach program.

Properly educating the nearly 7 million employees who are eligible for Secure Choice is a substantial undertaking that will require significant resources, yet the *Report* does not specify a source of funding for the effort. We recommend that the state set aside a substantial amount of funding to ensure that the worker

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[3] Ibid., 15.
[4] Ibid., 23.
[5] Ibid., 7.

outreach program recommended by the *Report* is adequately resourced. Without financial support from the state, the Board will likely be forced to rely on external sources of funding, which could potentially delay the implementation of Secure Choice.

Requirement to Collect Signatures Prior to Program Enrollment

Under the Act, employers must provide employees with a Secure Choice information packet developed by the California Employment Development Department, and employees must sign a disclosure form acknowledging their receipt and review of the packet.[6] According to the *Report*, employers must collect the signed forms before their workers can be enrolled in the program.[7] The *Report* recommends that the Act be amended to eliminate the requirement that employers collect the disclosure forms before enrollment in Secure Choice.[8] We believe the existing statutory requirement is a useful protective measure that ensures workers receive and review information about Secure Choice before being enrolled in it. Therefore, we recommend that the Board reject the *Report's* recommendation.

Secure Choice IRAs and Eligibility for Public Assistance

The Board should recommend that the legislature, consistent with the state's authority, exclude Secure Choice IRAs from asset limits for public benefit programs. To qualify for some public assistance programs, such as Medi-Cal and CalWORKs,[9] an individual must have a limited amount of assets – savings, investments, and property[10]. If the total value of a recipient's or applicant's assets exceeds a program's asset limit, he or she will be ineligible for benefits. Currently, it is unclear whether funds held in Secure Choice IRAs will count toward existing asset limits for some of the state's public benefit programs. In order for Secure Choice to be effective for low-income workers that receive public assistance, the state should exempt retirement savings accrued through Secure Choice from any asset tests used in determining eligibility for public assistance.

If the state does not exclude Secure Choice IRAs from asset limit tests, Secure Choice participants could be disqualified from receiving other public benefits, undermining the very goals of Secure Choice of improving retirement security, as well as the goals of current public assistance programs. The potential impact of Secure Choice IRAs on eligibility for public benefits is not discussed in the *Report*, but must be addressed in any future legislation.

We hope this letter assists the Board in finalizing its recommendations for the design of Secure Choice. If you have any questions regarding the letter, please contact Lewis Brown, Jr., at 510-663-4322 or Lewis@policylink.org.

Sincerely,

Angela Glover Blackwell
President and CEO
PolicyLink

Cc: Sen. Kevin de Leon, Senate President Pro Tempore

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[6] Cal. Gov. Code § 100014(d) (2012).
[7] *Final Report*, 13, 17.
[8] Ibid.
[9] Department of Health Care Services, *Medi-Cal General Property Limitation* http://www.dhcs.ca.gov/formsandpubs/forms/Forms/MC%20Information%20Notices/MC007ENG(0414).pdf; LA County Department of Public Social Services, "CalWORKs Eligibility," http://www.ladpss.org/dpss/calworks/eligibility.cfm.
[10] Some property may be excluded when calculating the value of an individual's assets.