SEPTEMBER 24, 2018

AGENDA ITEM 6
ACTION ITEM

CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

Resolution No. 2018-10: Authority to Initiate Rulemaking

Summary
For this item, staff will present a revised set of proposed regulations for the Board's consideration and seek authority to initiate the formal rulemaking process.

Background
State law compels the California Secure Choice Retirement Savings Investment Board ("Board") to design and implement the CalSavers Retirement Savings Program ("CalSavers" or "the Program") and makes the Board responsible for the effective and efficient administration of the California Secure Choice Program Trust ("Trust"). State law also grants the Board authority to adopt regulations to implement the Program and deems the adoption, amendment, repeal, or readoption of a regulation to address an emergency.

CalSavers staff began working on developing regulations in the summer of 2017 by convening informal employer and employee stakeholder working groups to discuss, analyze, and make recommendations on key elements for the design of the Program, including elements to be defined through regulations. Staff provided presentations to the Board on the content of those meetings and presented drafts of proposed regulations through the February 26, 2018 Board meeting, at which the Board approved a draft of proposed regulations. Since that meeting, staff have completed an economic and fiscal analysis of the impact of those regulations and began refining the proposed regulations to add specificity, clarity, and propose modifications to some of the regulations in the version approved by the Board.

The proposed regulations seek to define and clarify the following topics:
- Definitions of key terms;
- Employer eligibility;
- Employer registration;
- Employer duties;
- Employee enrollment;
- Default account settings and alternative elections;
- Individual participation;
- Contributions and distributions; and
- Confidentiality and disclosures.

A summary of the changes made to the proposed regulations is provided as attachment 3.

Timeline
Government Code Section 100048 deems the adoption of regulations for the Program to address an emergency. Emergency regulations remain effective for 180 days and may be readopted for two additional 90 day periods.

If the Board approves filing emergency regulations at the September 24, 2018 Board meeting, staff would file the regulations soon after. Staff anticipate the regulations would take effect by mid-October.

The resolution would also give staff authority to initiate the regular rulemaking process—if there are no substantive changes to the regulations package. Staff will initiate the regular rulemaking process soon after emergency regulations take effect in mid- to late-October. Staff estimate the regular rulemaking process will conclude in the Spring of 2019 if no changes to the regulations package are necessary.

Additional detail on the estimated timeline for adoption of regulations can be found in attached to this report.

Resolution No. 2018-10
Resolution no. 2018-10, if approved by the Board, would express Board approval for the substance of the regulations. The resolution would authorize the Executive Director to initiate the emergency rulemaking process and initiate the regular rulemaking process if no substantive changes to the regulations text are necessary. The resolution would also grant some limited authority to staff to make technical or non-substantive modifications to the regulations during the formal rulemaking process if necessary.

Staff recommendation
Staff recommend the Board approve resolution no. 2018-10 to approve the content of the regulations and authorize the Executive Director to initiate the formal rulemaking process.

Attachments
- Attachment #1 – Draft Regulations (clean version)
- Attachment #2 – Draft Regulations (with redlined edits showing all changes from February 26, 2018 version)
- Attachment #3 – Presentation on Draft Regulations
- Attachment #4 – Rulemaking Timeline
- Attachment #5 – Resolution No. 2018-10