

---

SEPTEMBER 23, 2019

AGENDA ITEM 6  
ACTION ITEM

CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

*Resolution No. 2019-06: Modification of Regulations and Authority to Conduct Rulemaking*

---

***Summary***

For this item, staff will seek approval of technical modifications to the proposed regulations originally approved by the Board at the January 28, 2019 meeting.

***Background***

Following adoption of emergency regulations in November 2018, the Board provided approval to begin what is known as “regular rulemaking” in January 2019. Following the conclusion of a 45-day public comment period, the Board approved a modified version of the regulations in May 2019. Those modifications were made to clarify that certain non-payroll contributions may only be made through Electronic Fund Transfer. Staff filed the proposed regulations for the CalSavers Retirement Savings Program with the Office of Administrative Law (OAL) in June 2019.

During its review of the regulatory file, OAL identified technical changes to the text of the regulations and associated documents necessary to improve clarity. While the changes do not represent a significant change to the substance or intent of the regulations, they required an additional 15-day public comment period to be held. The modifications include:

- A change necessary to conform regulations with recently passed legislation altering our statute, which shift responsibility to distribute employee information packets from employers to the CalSavers Retirement Savings Program (“the Program”), by deleting Section 10003(c) and inserting a new Section 10004(a)
- Addition of a specific date by which individual enrollment (e.g. enrollment outside of an employment relationship) will be available (Section 10006(a))
- Changes to remove language that is unnecessary to specify in regulations (e.g. Section 10001(d))
- Various edits to improve readability

At the May meeting, the Board approved a resolution to approve a modification to the regulations and to provide staff authority to make changes akin to those presented today. During the regulatory review process, OAL opined that our statute may not necessarily provide the Board the ability to delegate such authority to staff. To ensure we appropriately evidence the Board’s approval of the regulations, staff are presenting these modifications for the Board’s approval. Staff will discuss potential changes to statute to allow for such delegation of authority for the Board’s consideration under agenda item 5.

***Timeline***

Upon approval by the Board, staff will file the regulations with the Office of Administrative Law soon after, beginning a 30-day review period during which OAL shall either approve, deny, or recommend further changes to the regulations. The emergency regulations currently in effect expire November 19, 2019.

***Board Resolution 2019-06***

Board Resolution 2019-06 would express the Board's approval of the modifications to the regulations and provide staff authority to execute and deliver documents necessary for the rulemaking process.

***Staff recommendation***

Staff recommend the Board approve resolution no. 2019-06.

***Attachments***

- Attachment #1 – Proposed Modifications to Regulations (No markup)
- Attachment #2 – Proposed Modifications to Regulations (With markup)
- Attachment #3 – Resolution No. 2019-06