

Introduced by Senator PanFebruary 18, 2020

An act to amend Section 26012 of the Business and Professions Code, and to amend Sections 100000, 100002, 100004, 100010, 100014, 100028, 100032, 100034, 100038, 100043, and 100046 of, and to amend the heading of Title 21 (commencing with Section 100000) of, the Government Code, relating to retirement savings.

LEGISLATIVE COUNSEL'S DIGEST

SB 1042, as introduced, Pan. Retirement savings.

Existing law, the California Secure Choice Retirement Savings Trust Act, establishes the CalSavers Retirement Savings Program to be administered by the California Secure Choice Retirement Savings Investment Board. Existing law requires the Treasurer, on behalf of the board, to appoint an executive director, who is not a member of the board and who serves at its pleasure. Existing law requires eligible employers to offer a payroll deposit retirement savings arrangement so that eligible employees may contribute a portion of their salary or wages to a retirement savings program account in the program, as specified. Existing law requires the board to take various actions upon implementation of the program and, for to up 3 years following its initial implementation of the program, requires the board to establish managed accounts invested in United States Treasuries, myRAs, or similar investments. Existing law states that the program is implemented as of January 1, 2017.

This bill would rename the California Secure Choice Retirement Savings Trust Act as the CalSavers Retirement Savings Trust Act, the body that administers the act as the CalSavers Retirement Savings Board, and make conforming changes in this regard. The bill would

make various changes in the act to reflect that it has been implemented, including eliminating the requirement to establish managed accounts invested in United States Treasuries, myRAs, or similar investments described above. The bill would authorize the board to delegate rulemaking authority to its executive director. The bill would authorize an employee to opt out of participation in the program by telephone and would eliminate a condition relating to contribution amounts that depends on the length of time that an employee has contributed to the program.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA generally divides responsibility for the state licensure and regulation of commercial cannabis activity among the Department of Food and Agriculture, the State Department of Public Health, and the Bureau of Cannabis Control, which are generally referred to as licensing authorities.

This bill would require the licensing authorities described above to provide specified information regarding licensees to the CalSavers Retirement Savings Board upon request by the board.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 26012 of the Business and Professions
- 2 Code is amended to read:
- 3 26012. (a) It being a matter of statewide concern, except as
- 4 otherwise authorized in this division:
- 5 (1) The bureau shall have the sole authority to create, issue,
- 6 deny, renew, discipline, suspend, or revoke licenses for
- 7 microbusinesses, transportation, storage unrelated to manufacturing
- 8 activities, distribution, testing, and sale of cannabis and cannabis
- 9 products within the state.

1 (2) The Department of Food and Agriculture shall administer
2 the provisions of this division related to and associated with the
3 cultivation of cannabis. The Department of Food and Agriculture
4 shall have the authority to create, issue, deny, and suspend or
5 revoke cultivation licenses for violations of this division.

6 (3) The State Department of Public Health shall administer the
7 provisions of this division related to and associated with the
8 manufacturing of cannabis products. The State Department of
9 Public Health shall have the authority to create, issue, deny, and
10 suspend or revoke manufacturing licenses for violations of this
11 division.

12 (b) The licensing authorities shall have the authority to collect
13 fees in connection with activities they regulate concerning
14 cannabis. The licensing authorities may create licenses in addition
15 to those identified in this division that the licensing authorities
16 deem necessary to effectuate their duties under this division.

17 (c) For the performance of its duties, each licensing authority
18 has the power conferred by Sections 11180 to 11191, inclusive,
19 of the Government Code.

20 (d) Licensing authorities shall begin issuing licenses under this
21 division by January 1, 2018.

22 (e) *Licensing authorities shall, upon the request of the CalSavers
23 Retirement Savings Board, furnish to the board the following
24 information with respect to every licensee:*

- 25 (1) *Name.*
- 26 (2) *Address or addresses of record.*
- 27 (3) *Federal employer identification number if the licensee is a
28 partnership, or the licensee’s individual taxpayer identification
29 number or social security number for all other licensees.*
- 30 (4) *Type of license.*
- 31 (5) *Effective date of license or a renewal.*
- 32 (6) *Expiration date of license.*
- 33 (7) *Whether license is active or inactive, if known.*
- 34 (8) *Whether license is new or a renewal.*

35 SEC. 2. The heading of Title 21 (commencing with Section
36 100000) of the Government Code is amended to read:

37
38 ~~TITLE 21. THE CALIFORNIA SECURE CHOICE~~
39 ~~CALSAVERS RETIREMENT SAVINGS TRUST ACT~~
40

1 SEC. 3. Section 100000 of the Government Code is amended
2 to read:

3 100000. For purposes of this title, the following definitions
4 shall apply:

5 (a) “Board” means the ~~California Secure Choice Retirement~~
6 ~~Savings Investment Board~~. *CalSavers Retirement Savings Board*.

7 (b) “CalSavers Retirement Savings Program” or “program”
8 means a retirement savings program offered ~~by pursuant to the~~
9 ~~California Secure Choice CalSavers Retirement Savings Trust~~.
10 *Trust Act*.

11 (c) (1) “Eligible employee” means a person who is employed
12 by an eligible employer.

13 (2) “Eligible employee” does not include:

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

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

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

28 (2) Upon a positive determination pursuant to subdivision (a)
29 of Section 100046, eligible employer means an employer of a
30 provider of in-home supportive services, as regulated by Article
31 7 (commencing with Section 12300) of Chapter 3 of Part 3 of
32 Division 9 of the Welfare and Institutions Code.

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

36 (e) “IRA” means an individual retirement account or individual
37 retirement annuity under Section 408(a), 408(b), or 408A of Title
38 26 of the United States Code.

39 (f) “myRA” means the federal myRA retirement savings
40 program, including any successor program, offered by the United

1 States Department of the Treasury or an IRA offered under that
2 program.

3 (g) “Participating employer” means an eligible employer that
4 provides a payroll deposit retirement savings arrangement provided
5 for by this title for eligible employees.

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

11 (i) “Trust” means the ~~California Secure Choice~~ *CalSavers*
12 Retirement Savings Trust established by this title.

13 (j) “Vendor” means a registered investment company or admitted
14 life insurance company qualified to do business in California that
15 provides retirement investment products. “Vendor” also includes
16 a company that is registered to do business in California that
17 provides payroll services or recordkeeping services and offers
18 retirement plans or payroll deduction IRA arrangements using
19 products of regulated investment companies and insurance
20 companies qualified to do business in California. “Vendor” does
21 not include individual registered representatives, brokers, financial
22 planners, or agents.

23 SEC. 4. Section 100002 of the Government Code is amended
24 to read:

25 100002. (a) (1) There is hereby created within state
26 government the ~~California Secure Choice Retirement Savings~~
27 ~~Investment~~ *CalSavers Retirement Savings* Board, which shall
28 consist of nine members, with the Treasurer serving as chair, as
29 follows:

30 (A) The Treasurer.

31 (B) The Director of Finance, or the director’s designee.

32 (C) The Controller.

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

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

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

38 (G) A public member appointed by the Governor.

39 (H) Two additional members appointed by the Governor.

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

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

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

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

12 (2) Borrow any funds or deposits of the trust, or use those funds
13 or deposits in any manner, for themselves or as an agent or partner
14 of others.

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

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

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

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

29 (e) The board, subject to its authority and fiduciary duty, shall
30 design and implement the CalSavers Retirement Savings Program.

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

35 ~~(B)~~

36 (1) The board shall have the authority to provide for investment
37 in myRAs, provided that, in accordance with the myRA provisions,
38 myRA contributions and investment returns shall only be used for
39 myRA investments and to make distributions to, or for the benefit

1 of, participants and shall not be used to pay any costs of
2 administration.

3 ~~(2) During period described in paragraph (1), the~~ *The* board
4 shall ~~develop and implement~~ *maintain* an investment policy
5 *statement* that defines the program's investment objectives and
6 ~~shall establish~~ *articulates* policies and procedures enabling
7 investment objectives to be met in a prudent manner. The board
8 shall seek to minimize participant fees and strive to implement
9 program features that provide maximum possible income
10 replacement balanced with appropriate risk in an IRA-based
11 environment. The *investment policy statement* shall describe the
12 investment options available to holders of individual savings
13 accounts established as part of the program. *The investment policy*
14 *statement shall include a risk management and oversight program.*
15 Investment options may encompass a range of risk and return
16 opportunities and allow for a rate of return commensurate with an
17 appropriate level of risk to meet the investment objectives stated
18 in the policy.

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

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

34 (f) The board shall approve an investment management entity
35 or entities, the costs of which shall be paid out of funds held in the
36 trust and shall not be attributed to the administrative costs of the
37 board in operating the trust. Not later than 30 days after the close
38 of each month, the board shall place on file for public inspection
39 during business hours a report with respect to investments made

1 pursuant to this section and a report of deposits in financial
2 institutions.

3 SEC. 5. Section 100004 of the Government Code is amended
4 to read:

5 100004. (a) There is hereby established a retirement savings
6 trust known as the ~~California Secure Choice~~ *CalSavers* Retirement
7 Savings Trust to be administered by the board for the purpose of
8 promoting greater retirement savings for California private
9 employees in a convenient, voluntary, low-cost, and portable
10 manner. After sufficient funds are made available for this title to
11 be operative, the ~~California Secure Choice Retirement Savings~~
12 ~~Trust~~, *trust*, as a self-sustaining trust, shall pay all costs of
13 administration only out of moneys on deposit therein.

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

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

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

35 (e) Any contributions paid by employees and employers into
36 the trust shall be used exclusively for the purpose of paying benefits
37 to the participants of the *CalSavers* Retirement Savings Program,
38 for the cost of administration of the program, and for investments
39 made for the benefit of the program.

1 (f) ~~The California Secure Choice Retirement Savings Trust~~ *trust*
2 is an instrumentality of the state. Any security issued, managed,
3 or invested by the California Secure Choice Retirement Savings
4 Investment Board within the California Secure Choice Retirement
5 Savings Trust on behalf of an individual participating within the
6 CalSavers Retirement Savings Program shall be exempt from
7 Sections 25110, 25120, and 25130 of the Corporations Code.

8 SEC. 6. Section 100010 of the Government Code is amended
9 to read:

10 100010. (a) The board shall have the power and authority to
11 do all of the following:

12 (1) Make and enter into contracts necessary for the
13 administration of the trust.

14 (2) Adopt a seal and change and amend it from time to time.

15 (3) Cause moneys in the program fund to be held and invested
16 and reinvested.

17 (4) Accept any grants, gifts, legislative appropriation, and other
18 moneys from the state, any unit of federal, state, or local
19 government or any other person, firm, partnership, or corporation
20 for deposit to the administrative fund or the program fund.

21 (5) Contract with a program administrator and determine the
22 duties of the program administrator. The Treasurer shall, on behalf
23 of the board, appoint an executive director, who shall not be a
24 member of the board and who shall serve at the pleasure of the
25 board. The Treasurer shall determine the duties of the executive
26 director and other staff as appropriate and set ~~his or her~~ *their*
27 compensation. The board may authorize the executive director to
28 enter into contracts on behalf of the board or conduct any business
29 necessary for the efficient operation of the board.

30 (6) Make provisions for the payment of costs of administration
31 and operation of the trust.

32 (7) Employ staff.

33 (8) Retain and contract with the board of a California public
34 retirement system, private financial institutions, other financial
35 and service providers, consultants, actuaries, counsel, auditors,
36 third-party administrators, and other professionals as necessary.

37 (9) Procure insurance against any loss in connection with the
38 property, assets, or activities of the trust.

1 (10) Procure insurance indemnifying each member of the board
2 from personal loss or liability resulting from a member's action
3 or inaction as a member of the board.

4 (11) Set minimum and maximum investment levels in
5 accordance with contribution limits set for IRAs by the Internal
6 Revenue Code.

7 (12) Collaborate and cooperate with the board of a California
8 public retirement system, private financial institutions, service
9 providers, and business, financial, trade, membership, and other
10 organizations to the extent necessary or desirable for the effective
11 and efficient design, implementation, and administration of the
12 program and to maximize outreach to eligible employers and
13 eligible employees.

14 (13) Collaborate with, and evaluate the role of, licensed
15 insurance agents and financial advisors in assisting and providing
16 guidance for eligible employees.

17 (14) Cause expenses incurred to initiate, implement, maintain,
18 and administer the program to be paid from contributions to, or
19 investment returns or assets of, the program or arrangements
20 established under the program, to the extent permitted under state
21 and federal law.

22 (15) Facilitate compliance by the retirement savings program
23 or arrangements established under the program with all applicable
24 requirements for the program under the Internal Revenue Code of
25 1986, including tax qualification requirements or any other
26 applicable law and accounting requirements, including providing
27 or arranging for assistance to program sponsors and individuals
28 in complying with applicable law and tax qualification
29 requirements in a cost-effective manner.

30 (16) Carry out the duties and obligations of the ~~California Secure~~
31 ~~Choice Retirement Savings Trust~~ trust pursuant to this title and
32 exercise any and all other powers as appropriate for the effectuation
33 of the purposes, objectives, and provisions of this title pertaining
34 to the trust.

35 (b) The board shall adopt regulations it deems necessary to
36 implement this title consistent with the Internal Revenue Code and
37 regulations issued pursuant to that code to ensure that the program
38 meets all criteria for federal tax-deferral or tax-exempt benefits,
39 or both. *The board may delegate this rulemaking authority to the*
40 *executive director by resolution.*

1 SEC. 7. Section 100014 of the Government Code is amended
2 to read:

3 100014. (a) ~~Prior to opening the CalSavers Retirement Savings~~
4 ~~Program for enrollment, the~~ *The* board shall design and disseminate
5 to employers an employee information packet that shall be
6 available in an electronic format. The packet shall include
7 background information on the program and appropriate disclosures
8 for employees.

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

11 (1) The benefits and risks associated with making contributions
12 to the program.

13 (2) The mechanics of how to make contributions to the program.

14 (3) How to opt out of the program.

15 (4) The process for withdrawal of retirement savings.

16 (5) How to obtain additional information on the program.

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

19 (1) Employees seeking financial advice should contact financial
20 advisors, that employers do not provide financial advice, that
21 employees are not to contact their employers for financial advice,
22 and that employers are not liable for decisions employees make
23 pursuant to Section 100034.

24 (2) This retirement program is not sponsored by the employer,
25 and therefore the employer is not responsible for the plan or liable
26 as a plan sponsor.

27 (3) The program fund is not guaranteed by the State of
28 California.

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

32 (e) The employee information packet shall also include an
33 opt-out form for an eligible employee to note their decision to opt
34 out of participation in the program. The opt-out notation shall be
35 simple and concise and drafted in a manner that the board deems
36 necessary to appropriately evidence the employee's understanding
37 that they are choosing not to automatically deduct earnings to save
38 for retirement.

39 (f) The employee information packet with the disclosure and
40 opt-out forms shall be made available to eligible employees by the

1 CalSavers Retirement Savings Program and supplied to employees
2 at the time of hiring. All new employees shall review the packet
3 and acknowledge having received it.

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

8 SEC. 8. Section 100028 of the Government Code is amended
9 to read:

10 100028. (a) The actual cost of establishing the vendor
11 registration system and the Retirement Investments Clearinghouse
12 shall be borne equally by registered vendors, based on the total
13 number of registered vendors. Each registered vendor shall pay a
14 one-time establishment fee equal to a pro rata share of the
15 establishment costs charged to vendors that register with the board
16 prior to the close of the initial registration period, as determined
17 by the board. The one-time establishment fee charged to vendors
18 that register with the board after the completion of the initial
19 registration period shall be distributed equally among registered
20 vendors that have paid the establishment fee and credited toward
21 subsequent maintenance and administrative fees charged to each
22 vendor.

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

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

36 (d) The board shall not divert ~~California Secure Choice~~
37 ~~Retirement Savings Trust~~ *trust* funds to establish or maintain the
38 vendor registration system or the Retirement Investments
39 Clearinghouse.

1 SEC. 9. Section 100032 of the Government Code is amended
2 to read:

3 100032. (a) ~~After the board opens the CalSavers Retirement~~
4 ~~Savings Program for enrollment, any~~ Any employer may choose
5 to have a payroll deposit retirement savings arrangement to allow
6 employee participation in the program under the terms and
7 conditions prescribed by the board.

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

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

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

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

27 (f) (1) Each eligible employee shall be enrolled in the program
28 unless the employee elects not to participate in the program. An
29 eligible employee may elect to opt out of the program by making
30 a notation on the opt-out ~~form.~~ *form or by contacting the program*
31 *by telephone.*

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

39 (3) An employee who elects to opt out of the program who
40 subsequently wants to participate through the employer's payroll

1 deposit retirement savings arrangement may ~~only~~ enroll during
2 the board's designated open enrollment period or ~~if permitted at~~
3 ~~an earlier~~ *at any other* time.

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

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

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

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

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

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

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

33 (2) Automatic escalation shall result in no more than a
34 1-percent-of-salary increase in employee contributions per calendar
35 year.

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

39 SEC. 10. Section 100034 of the Government Code is amended
40 to read:

1 100034. (a) Employers shall not have any liability for an
2 employee's decision to participate in, or opt out of, the ~~CalSavers~~
3 ~~Retirement Savings Program~~, *program*, or for the investment
4 decisions of employees whose assets are deposited in the program.

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

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

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

25 SEC. 11. Section 100038 of the Government Code is amended
26 to read:

27 100038. (a) Notwithstanding Section 10231.5, the board shall
28 submit an annual audited financial report, prepared in accordance
29 with generally accepted accounting principles, on the operations
30 of the ~~California Secure Choice Retirement Savings Trust~~ *trust* by
31 August 1 to the Governor, the Controller, the State Auditor, and
32 the Legislature, pursuant to Section 9795. The annual audit shall
33 be made by an independent certified public accountant and shall
34 include, but not be limited to, direct and indirect costs attributable
35 to the use of outside consultants, independent contractors, and any
36 other persons who are not state employees.

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

39 (1) Any studies or evaluations prepared in the preceding year.

1 (2) A summary of the benefits provided by the trust including
2 the number of participants in the trust.

3 (3) Any other information that is relevant in order to make a
4 full, fair, and effective disclosure of the operations of the ~~California~~
5 ~~Secure Choice Retirement Savings Trust~~. *trust*.

6 SEC. 12. Section 100043 of the Government Code is amended
7 to read:

8 100043. (a) The board shall not ~~implement~~ *operate* the
9 program if the IRA arrangements offered fail to qualify for the
10 favorable federal income tax treatment ordinarily accorded to IRAs
11 under the Internal Revenue Code, or if it is determined that the
12 program is an employee benefit plan under the federal Employee
13 Retirement Income Security Act.

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

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

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

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

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

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

35 SEC. 13. Section 100046 of the Government Code is amended
36 to read:

37 100046. The CalSavers Retirement Savings Program is
38 approved by the Legislature and implemented as of January 1,
39 2017. The board shall consider and utilize the following parameters
40 in designing the program:

- 1 (a) The board shall include a provider of in-home supportive
2 services, as regulated by Article 7 (commencing with Section
3 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and
4 Institutions Code in the program if the board determines, and the
5 Director of the State Department of Social Services and the
6 Director of the Department of Finance certify, in writing, all of
7 the following:
- 8 (1) The inclusion meets all state and federal legal requirements.
9 (2) The appropriate employer of record has been identified for
10 the purpose of satisfying all the program’s employer requirements.
11 (3) The payroll deduction, described in Section 12302.2 of the
12 Welfare and Institutions Code, can be implemented at reasonable
13 costs.
14 (4) The inclusion does not create a financial liability for the
15 state or employer of record.
- 16 (b) The board shall structure the program so as to ensure the
17 state is prohibited from incurring liabilities associated with
18 administering the program and that the state has no liability for
19 the program or its investments.
- 20 (c) The board shall determine necessary costs associated with
21 outreach, customer service, enforcement, staffing and consultant
22 costs, and all other costs necessary to administer the program.
- 23 (d) The board shall consult with employer representatives to
24 create an administrative structure that facilitates employee
25 participation while addressing employer needs, including, but not
26 limited to, clearly defining employers’ duties and liability
27 exemption pursuant to Section 100034.
- 28 (e) The board shall include comprehensive worker education
29 and outreach in the program, and the board may collaborate with
30 state and local government agencies, community-based and
31 nonprofit organizations, foundations, vendors, and other entities
32 deemed appropriate to develop and secure ongoing resources for
33 education and outreach that reflect the cultures and languages of
34 the state’s diverse workforce population.
- 35 (f) The board shall include comprehensive employer education
36 and outreach in the program, with an emphasis on employers with
37 less *fewer* than 100 employees, developed in consultation with
38 employer representatives, with the integration of the following
39 components:

- 1 (1) A program ~~Internet Web site~~ *internet website* to assist the
- 2 employers of participating employees.
- 3 (2) A toll-free help line for employers with live and automated
- 4 assistance.
- 5 (3) Online Internet Web training.
- 6 (4) Live presentations to business associations.
- 7 (5) Targeted outreach to small businesses with 10 or ~~less~~ *fewer*
- 8 employees.

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