
APRIL 15, 2020

AGENDA ITEM 5
INFORMATION ITEM

CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

2020 Statutory Amendments

Summary

Staff will seek approval from the California Secure Choice Retirement Savings Investment Board (“Board”) for an amendment to the technical cleanup legislation it approved at the November 18, 2019 Board meeting.

Background

At the November 18, 2019 meeting, the Board approved staff recommendations to 1) engage legislators on technical cleanup legislation in 2020 and 2) approve the statutory amendments in substantially the same form.

Senate Bill (“SB”) 1042 (Pan) was introduced February 18, 2020. The bill includes all of the substantive statutory amendments approved by the Board at the November 18, 2019 meeting. Additional non-substantive amendments are included in SB 1371, the main legislative vehicle for maintenance of the codes.

SB 1042 was scheduled to be heard by the Senate Committee on Labor, Public Employment and Retirement March 25, 2020. Due to the COVID-19 emergency, the legislature went into recess before the bill could be heard. At the time this item was written, the legislature will remain in recess until May 4, 2020.

Statutory language regarding CalSavers enforcement is currently located in Unemployment Insurance Code Section 1088.9 and identifies the Employment Development Department (“EDD”) as the agency with the powers and authority to administer enforcement of employer compliance.

As the agency responsible for administering unemployment insurance, EDD is currently experiencing severe resource constraints as it contends with the labor market fallout of the COVID-19 pandemic.

Analysis

Due in part to concerns about EDD’s capacity given its role in responding to the COVID-19 emergency, CalSavers staff and EDD have reconsidered if EDD is the agency that should perform the enforcement role. CalSavers staff have met with other agencies to determine if they are better suited for enforcing employer compliance.

After assessing options, staff conclude that the Franchise Tax Board (“FTB”) is best positioned to serve as the agency responsible for enforcement of employer compliance due to its:

- Long track record of ensuring compliance with laws;
- Strong reputational familiarity among employers;
- Investigation and audit functions;
- Capability to collect fines; and
- Appeals processes.

Leadership at FTB support transitioning the enforcement duties to FTB.

If the Board approves the resolution in support of this statutory amendment, CalSavers staff will engage with legislators to amend statute providing FTB powers and authority to assume the duties for enforcement of employer compliance.

Attachments

- Attachment 1: Resolution 2020-03 – Approval of Legislative Amendment to Change the Agency Responsible for Enforcement of Employer Compliance
- Attachment 2: Senate Bill 1042 (Pan), as Introduced