

## **Initial Statement of Reasons**

### **Summary of Proposal**

The Board proposes the adoption of several regulations be made permanent through the regular rulemaking process as the regulations proposed in this rulemaking action were previously implemented through the emergency rulemaking process.

These regulations create an employer incentive program, communicate to employers how to qualify for the opportunity to win said incentives, describe what the incentives will be, how the incentives will be disbursed to employers, and for how long the incentives will be available. Additionally, the proposed regulations update employer registration requirements to include that employers must register and establish a payroll deposit retirement savings arrangement with the CalSavers Retirement Savings Program (Program) by specified deadlines contained in Title 10 of the California Code of Regulations (CCR) Section 10002 subsections (a) and (b). By making this update the Board intends to communicate to eligible employers which actions must be taken by them by certain dates and comport the Board's regulatory language with State law (Title 21 GOV Code Section 100032).

### **Background**

In 2012, the California Legislature enacted, and the Governor signed, Senate Bills (SB) 1234 and (Chapter 734, Statutes of 2012) and SB 923 (Chapter 737, Statutes of 2012) which established the California Secure Choice Retirement Savings Investment Board (subsequently changed to the "CalSavers Retirement Savings Board" through Assembly Bill (AB) 102 in 2020). The legislation among other things required the Board to determine, based on the market analysis, if conditions to implement the Program can be met and prohibited the implementation of the Program without subsequent legislation to authorize it.

In 2016, the California Legislature enacted, and the Governor signed SB 1234 (Chapter 804, Statutes of 2016) which, among other things, granted the Board the authority to take the steps necessary to implement the Program, including the adoption of regulations.

In 2020, the California Legislature enacted, and the Governor signed AB 102 (Chapter 21, Statutes of 2020) which among other things, created a penalty enforcement scheme administrated by the CalSavers Retirement Savings Board and the Franchise Tax Board (FTB). The bill expressly vested the Board with the ability to levy penalties on employers for failing to allow its eligible employees to participate in the Program. The bill requires the Board to provide penalty notices to employers who fail to allow its employees to participate in the Program. If compliance is not satisfied after the Board's notice is served on a noncompliant employer, the bill permits FTB to impose a penalty of \$250 per employee for failure to allow employees to participate in the Program. If noncompliance persists after the initial penalty is imposed, FTB is authorized on behalf of the Board to issue additional penalties of \$500 per employee for continued

noncompliance. Lastly, the bill created an appeals process by which employers may dispute penalties authorized by the bill with FTB.

In April of 2020, the Board authorized staff to engage in rulemaking activities surrounding compliance efforts for noncompliant employers, creating Section 10008 of Title 10 of the CCR. In January of 2022, those regulations amendments were made permanent. Board staff took further action to clarify that Section of the regulations in December 2023 through the emergency rulemaking process, establishing the full schedule of penalties in regulation as well as methods employers could take to demonstrate compliance after the penalty had been levied but before it had been collected. These amendments were made permanent in August of 2024.

As of February 28, 2025, the Board has collected \$3.03 million in penalties from noncompliant employers over four years of collecting penalties. In considering potential uses for this money, Board staff desired to find a way to turn money collected from noncompliant employers into Program features to entice more employers to come into compliance with the Program by affording their employees the opportunity to save towards their retirement. One such idea was an incentive program for employers with registration deadlines still to come.

At the March 6, 2025, Board meeting, the Board considered the proposed adoption of regulations that create an incentive program for employers to register and facilitate the Program and authorized the Executive Director of the Program to conduct the rulemaking process to effectuate said proposed regulations. This rulemaking action intends to adopt the regulations considered by the Board through the emergency rulemaking process as authorized by the legislature pursuant to Section 100048 Title 21 GOV Code.

### **Authority and Reference Citations**

Authority: Sections 100010 and 100048 of Title 21 of Government Code (GOV Code) provides the Board with the authority to adopt regulations to implement Title 21 GOV Code.

Reference: Sections 100004, 100012, and 1000032 of Title 21 GOV Code are being implemented, interpreted, and made specific via this proposed rulemaking action.

### **Policy Statement Overview**

#### **Objectives, Goals, & Problems Addressed by this Rulemaking**

The objective of this rulemaking action is to establish and implement an employer financial incentive program. By offering a financial incentive program to employers who register and facilitate the Program within a specified time-period, the Board intends to improve the uptake of the Program by employers. Additionally, the Board will use the existence of the incentive program and employer information gathered while promoting the incentive program to create promotional materials to improve the Board's media and advertising presence. By doing so the Board hopes this increased media presence will

improve the regulated community's awareness and understanding of the Program and further spur adoption of the Program by employers.

The Board has been successful in getting employers to register with the Program; however, that success has not fully translated to employers that facilitate the Program for their participating employees. For every one employer that facilitates the Program there are three employers that are registered but do not facilitate the Program. That cohort represents the best place for the Program to increase the retirement savings outcome for employees in California as these employers have shown the willingness to register with the Program but for a variety of reasons do not complete the remainder of their legal obligations.

Without a solution like the one proposed in this rulemaking the same endemic issue of employers registering with the Program but not facilitating the Program for employees that wish to participate will likely persist, and hence the issue the Board was created to solve will continue for longer than necessary. To date, Board staff have endeavored to resolve this issue through communications, mailers, webinars, advertisements, one-on-one consultation, presentations, penalty enforcement, but these efforts have not proven to be as successful as hoped. The Board believes that by appealing to employer's own self-interest by offering direct financial incentives that the uptake of the Program will improve, leading to more employers registering and facilitating the Program for their employees.

### **Overall Anticipated Benefits of this Rulemaking**

This rulemaking action, if implemented, should improve the Program adoption rate of employers in California who employ one to four employees or who have a Program participation or exemption deadline of 12/31/2025. By improving Program uptake, the Program should gain more participants, meaning more Californian workers saving for retirement. Gaining more Program participants has a myriad of cascading benefits including, but not limited to:

- Reducing the Administrator's Program participation fees which saves participants money
- Increasing assets under management of the Program which has the potential to improve the following:
  - Revenue collected from Program fees which brings the Board closer to being revenue neutral and eventually revenue positive
  - Increased market presence and influence which strengthens the negotiating power of the Board for contracts and sway in the industry
  - Improved public perception of the Program as financial entities with larger assets under management may be viewed as more stable and prestigious by the public
- Improved retirement outcomes for California workers as more workers are saving money towards their retirement than before
- Reduced reliance of State social benefit programs by Californians in retirement

- Improved reach of the Program which boosts awareness about the Program, legitimacy, and public input

Additionally, the Board hopes that by offering this financial incentive program the public's perception of the Board improves as the Board is seen as doing as much as possible to assist the employer community with facilitating the Program. While the majority of the Board's work is centered around improving the employer experience with the Program, much of that work is not seen or fully understood by the public, given that they do not directly transact with the Program. The Board hopes that by taking a portion of the penalty monies collected from employers that have willingly chosen to not follow state law (Title 21 GOV Code) and investing those resources into rewarding employers for following the law that the public will see the Board is taking proactive measures to positively impact employers while bringing them into compliance with state law.

Lastly, as mentioned in the "Objectives, Goals, & Problems Addressed by this Rulemaking" portion of this document, the Board will be creating promotional content for this campaign to be shared by the Board, its Administrator, and members of the California business community to further improve the presence and reach of the Program to the public. By doing so, the Board hopes that the public will be more aware of the Program, its requirements, and its benefits. If that goal is achieved, then members of the public should be more educated about the Program and may experience fewer issues with interacting with the Program and fulfilling their obligations under state law.

### **Effect of the Proposed Regulations**

Similar to the benefits of this rulemaking, the effects of the proposed regulations are as follows:

1. The regulations incentivize employers to take the optional step of registering and establishing a payroll deposit retirement savings arrangement with the Program ahead of the December 31, 2025 deadline, when registering and establishing a payroll deposit retirement savings arrangement becomes mandatory. Registration is available to any eligible employer at any time since January 1, 2023.
2. The regulations incentivize employers to comply with state law (Title 21 GOV Code). If successful compared to past deadline compliance rates, the Board will collect less penalty revenue from employers than if the proposed regulations were not in effect (less penalty revenue as a percentage of compliant employers vs noncompliant employers).
3. The incentivized earlier compliance from employers will help divide the workload of assisting employers with joining the Program on Board staff across more time before the deadline, as previous deadlines have shown that an outsized portion of the regulated population complies with the mandate one month before and after the deadline.

4. The Board and the Program will gain improved media and marketing content as a result of this incentive campaign, which will be used to spread awareness of the Program even further to let mandated businesses know what CalSavers is and that they need to comply with the mandate.
5. The regulated community will receive improved clarity of the Board's Program participation requirements contained in Title 10 CCR Section 10002 subsections (a)(4) and (b) by aligning the requirements with state law (Title 21 GOV Code Section 100032).

### **Evaluation as to Whether the Proposed Regulations Are Inconsistent or Incompatible with Existing State and Federal Regulations**

The Board evaluated whether or not there are any other regulations that may be adversely impacted by the adoption of these proposed regulations and found no such cases. Because these regulations are solely for the purpose of promoting and operating the Program, and no other regulations exist in the CCR and the Code of Federal Regulations that pertain to the promotion and operation of the Program, the proposed regulations are neither inconsistent nor incompatible with existing state and federal regulations.

Additionally, the Board found that there are no federal statutes that the proposed regulations are inconsistent nor incompatible with.

### **Consideration of Alternatives**

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Board is not aware of any reasonable alternatives to the regulations that would be viable in incentivizing early adoption of the Program beyond what is already proposed in this rulemaking. During the previous emergency rulemaking action which initially implemented the regulations contained in this rulemaking the Board received zero comments from the public. In this rulemaking action the Board welcomes and solicits the proposal of alternatives from the public during the rulemaking process and will consider them.

### **Discussion of Regulations Affected**

The section of the regulations proposed for adoption is identified below including a description of the objectives and necessity for the adoption.

#### **Section 10002. Employer Registration.**

**Amend subsection (a)(4):** The Board proposes to amend subsection (a)(4) by adding “and establish a payroll deposit retirement savings arrangement” to the registration deadline for employers with four or fewer employees. This is necessary to align the Board’s registration deadline regulations with Section 100032 subsection (b) and (f) of Title 21 GOV Code which requires employers who do not offer a qualified retirement savings program for their employees to register and establish a payroll retirement savings arrangement with the Program by specified dates. This proposed change is intended to improve the clarity of the Board’s regulations to eligible employers by communicating what they are required to complete by their Program participation deadline.

Additionally, this proposed change is necessary to require that employers fully establish a payroll deposit retirement savings arrangement with the Program as required by state law. This cannot solely be completed by registering with the Program as the employer during the Program registration process provides the information required by Section 10002 subsection (f) to the Program Administrator. That information does not include payroll information and as such is insufficient to count as establishing a payroll deposit retirement savings arrangement with the Program. Instead, the employer must send their employee payroll information required in Section 10003 subsection (a) to the Program Administrator to establish the payroll deposit retirement savings arrangement required by Title 21 GOV Code Section 100032.

By providing this payroll information to the Program, the Board considers the employer as having a payroll deposit retirement savings arrangement with the Program because this information is used to establish Program accounts for employees. Additionally, this payroll information is used to facilitate contributions to the Program on behalf of participating employees by the employer and the Program Administrator. If this information was not provided by the employer to the Administrator, the employer could not make payroll deposits on behalf of their participating employees and the Administrator could complete retirement account deposits for said employees. As such the Board believes without this crucial information a payroll deposit retirement savings arrangement cannot be established between an employer and the Administrator as the Administrator does not have the information necessary to establish the arrangement.

The inclusion of this amendment to subsection (a)(4) is necessary to improve the clarity of the Board’s regulations, comport the regulations with state law, establish the employer actions that need to be taken by the deadline enumerated in subsection (a)(4), and to fully effectuate the requirement that employers have a payroll deposit retirement savings arrangement with the Program.

**Amend subsection (b):** The Board proposes to amend subsection (b) by adding “and establish a payroll deposit retirement savings arrangement” to the registration deadline for newly eligible employers with five or more employees. This is necessary to align subsection (b)’s registration deadline regulation with the other registration deadline rules

contained in subsection (a)(4). If amended as proposed, those rules in this rulemaking, would also require employers who do not offer a qualified retirement savings program for their employees to register and establish a payroll retirement savings arrangement with the Program by their enumerated deadlines.

Additionally, the proposed amendment to subsection (b) is necessary for the same reasons explained in subsection (a)(4) above as the same change and effect is being made to subsection (b) as subsection (a)(4).

This inclusion of this amendment to subsection (b) is necessary to improve the clarity of the Board's regulations, comport the regulations with state law, make subsection (b) consistent with subsection (a)(4), establish the actions that need to be taken by the deadline enumerated in subsection (b), and to fully effectuate the requirement that employers have a payroll deposit retirement savings arrangement with the Program.

### **Adopt Section 10012. Program Incentives.**

**Adopt subsection (a):** The Board proposes to adopt subsection (a) to authorize and require the Board to offer financial incentives to participating employers who meet the requirements of subsections (b) and (f). This is necessary to create a financial incentive program to incentivize employers registering and facilitating the Program.

**Adopt subsection (a)(1):** The Board proposes to adopt subsection (a)(1) to describe key elements of the financial incentive program offered by the Board pursuant to subsection (a). Those elements will be described in subsections (a)(1)(A)-(C). This is necessary to communicate to the regulated community what the financial incentives will be, how they will be sent to awardees, and when they will be sent to awardees.

**Adopt subsection (a)(1)(A):** The Board proposes to adopt subsection (a)(1)(A) to state that the financial incentives offered by the Board will be \$500 per awardee. This is necessary to communicate to the regulated community the specific dollar value a participating employer would receive if their business was selected as an awardee.

**Adopt subsection (a)(1)(B):** The Board proposes to adopt subsection (a)(1)(B) to state that the financial incentives offered by the Board pursuant to Section 10012 will be disbursed by the Administrator to awardees via electronic fund transfer or personal check. This is necessary to communicate to the regulated community how the Board's financial incentives will be sent to participating employers that are announced as awardees.

The Administrator fully intends to disburse the funds via electronic fund transfer. If issues arise with sending the money electronically or if an awardee does not have bank transfers set up with the Program, then the Administrator will mail a physical check to the awardee.

**Adopt subsection (a)(1)(C):** The Board proposes to adopt subsection (a)(1)(C) to require that financial incentives be disbursed to awardees within 180 calendar days of

announcing awardees. This is necessary to communicate to the regulated community when they can expect to receive a financial incentive if they are announced as an awardee. It is also necessary to hold the Administrator to measurable standard so that the incentives are sent to awardees is a reasonable timeframe.

The Board chose 180 days to give the Administrator time to address any potential issues with disbursing funds to awardees including incorrect addresses provided to the Program, potential issues with the employer's bank receiving the funds, procuring and mailing physical checks (if necessary), or other unforeseen issues.

**Adopt subsection (b):** The Board proposes to adopt subsection (b) to create two financial incentive drawings from which participating employers will be drawn and announced as awardees. Additionally, subsection (b) establishes that participating employers will be eligible for entrance into said financial incentive drawings for completing the requirements of subsections (b)(1)-(b)(4).

The adoption of this subsection is necessary to create the two financial incentive drawings from which the Board will select and announce awardees. It is also necessary to communicate to the regulated community which steps they need to take to qualify for entrance into the financial incentive drawings.

**Adopt subsection (b)(1):** The Board proposes to adopt subsection (b)(1) to state that employers will be eligible for entrance into the two separate financial incentive drawings for registering and establishing a payroll deposit retirement savings arrangement with the Program between the dates enumerated in subsections (b)(1)(A) and (B) and for completing the other entry requirements of subsections (b)(2)-(4).

This is necessary to communicate to the regulated community what is required of them to be eligible for entrance into either of the two financial incentive drawings. It is also necessary to establish a dividing line that the Board will use to separate participating employers into the two incentive drawings. The Board will use the registration date ranges in subsection (b)(1)(A) (1/1/2025-6/31/2025) and (b)(1)(B) (8/1/2025-11/30/2025) as the main dividing line for entrance into the two incentive drawings as the other requirements for entrance in (b)(2)-(4) are the same.

**Adopt subsection (b)(1)(A):** The Board proposes to adopt subsection (b)(1)(A) to establish that employers that register and establish a payroll deposit retirement savings arrangement with the Program between January 1, 2025, and July 31, 2025, will be entered into one financial incentive drawing assuming they complete the other requirements for entry contained in subsections (b)(2)-(4). The Board also proposes to automatically enter participating employers who registered with the Program before January 1, 2025, and have a Program participation deadline established by Section 10002 subsection (a)(4) into this incentive drawing.

The inclusion of these provisions is necessary for several reasons. First, as mentioned in subsection (b)(1) above, the Board will group participating employers that registered



and established a payroll deposit retirement savings arrangement with the Program from January 1-July 31, 2025, into one group from which to draw financial incentive awardees.

Second, by creating this enrollment drawing from 12-5 months out from the Program participation deadline of December 31, 2025, the Board is incentivizing and rewarding employers for registering and facilitating the Program early. The intent behind this is to reward employers for facilitating the Program ahead of their deadline which will make administering and overseeing the Board's largest registration and facilitation deadline in history easier on staff. Encouraging earlier adoption ahead of the deadline will help ensure that employers who wait until the final month to join the Program have an easier experience, as more staff will be available to assist them. Additionally, the same logic applies to employers that complete their Program participation obligation earlier as more staff will be available to assist them earlier in the year than later.

Third, the dates chosen by the Board (January 1-July 31, 2025) are intentional as those dates coincide with the beginning of the Board's outreach campaign to employers who have a registration and facilitation deadline of December 31, 2025. The Board wants to ensure that it rewards employers who took appropriate action and joined the Program early after receiving communications from the Board. The Board believes that choosing an alternate, later date, such as April 1, 2025, when the regulations went into effect, would go against the intentions of these regulations and the desires of the Board by unfairly excluding employers who registered and facilitated the Program early but did so before the existence of the incentive program.

Fourth, the Board will request testimonials and other content from employers that are announced as awardees to use in promotional, advertising, and other media content to promote the financial incentive program to employers who may desire registering later in the year. The goal is to further drive and incentivize employers registering and facilitating the Program ahead of the December 31 deadline. The Board intends on announcing the awardees from the first financial incentive drawing in September 2025 and requires the month of August to determine which employers will be eligible for entrance into the drawings, validate that these employers are eligible to receive the financial incentives for meeting the requirements of Section 10012, and to publicly announce the incentive drawing entrants on its website.

Fifth, the Board believes that automatically entering employers who registered and facilitated the Program before January 1, 2025, and have a Program participation deadline established by Section 10002 subsection (a)(4) by having 1-4 California employees, into this incentive drawing is necessary to reward these employers for taking the action the Board intends to reward through this incentive program (joining early). The inclusion of the second sentence of subsection (b)(1)(A) is necessary to accomplish that intent by automatically entering this cohort of participating employers into this financial incentive drawing.

For these reasons and to communicate to the regulated community one of the steps they need to take to be eligible for entrance into this financial incentive drawing, the Board believes the adoption of subsection (a)(1)(A) is necessary.

**Adopt subsection (b)(1)(B):** The Board proposes to adopt subsection (b)(1)(B) to establish that employers that register and establish a payroll deposit retirement savings arrangement with the Program between August 1, 2025, and November 30, 2025, will be entered into one financial incentive drawing assuming they complete the other requirements for entry contained in subsections (b)(2)-(4).

The inclusion of this provision is necessary for a few reasons. First, as mentioned in subsection (b)(1) above, the Board will group participating employers that registered and established a payroll deposit retirement savings arrangement with the Program from August 1-November 30, 2025, into one group from which to draw financial incentive awardees from.

Second, by creating this drawing group from between four and one month in advance of the registration and enrollment deadline of December 31, 2025, the Board is incentivizing and rewarding employers for registering and facilitating the Program early. The intent behind this is to reward employers for facilitating the Program ahead of their deadline which will make administering and overseeing the Board's largest registration and facilitation deadline in history easier on staff. Additionally, by spurring adoption earlier in the year ahead of the deadline the employers that wait until the last month to join the Program will have an easier time joining as there will be more staff available to assist them.

Lastly, the adoption of subsection (b)(1)(B) is necessary to communicate to the regulated community one of the steps they need to take to be eligible for entrance into this financial incentive drawing.

**Adopt subsection (b)(2):** The Board proposes to adopt subsection (b)(2) to require that participating employers must be in full compliance with the regulations contained in this chapter (Title 10 CCR Chapter 15) and Title 21 GOV Code to be eligible for entrance into either of the two financial incentive drawings established by subsection (b)(1)(A) and (B).

This is necessary to communicate to the regulated community one of the steps they need to take to be eligible for entrance into the financial incentive drawings. Additionally, the Board is charged with implementing and enforcing Title 21 GOV Code which includes creating the regulations contained in Title 10 CCR Chapter 15. The Board believes it must uphold its legislative mandate by ensuring employers comply with the law. Therefore, the Board proposes making compliance with the laws and rules subject to the Board's jurisdiction a requirement for employers to qualify for the opportunity to receive a financial incentive. For these reasons the Board believes the adoption of subsection (b)(2) is necessary to require that employers follow the rules that are within the domain of the Board.

**Adopt subsection (b)(3):** The Board proposes to adopt subsection (b)(3) to require that participating employers must have at least one participating employee in the Program to be eligible for entrance into either of the two financial incentive drawings established by subsection (b)(1)(A) and (B).

This is necessary for three reasons. First, participating employers cannot facilitate contributions to the Program without at least one participating employee. As part of the eligibility requirements contained in subsection (b) the Board is requiring employers to facilitate at least one contribution to the Program (see subsection (b)(4)). To make the Board's rules and requirements consistent with one another the inclusion of this provision is necessary.

Second, the Board does not want to reward employers who don't have participating employees in the Program as the Board was created by the California Legislature to, among other things, ameliorate the retirement savings access gap for California employees and more broadly to help mitigate the retirement savings crisis. To stay in alignment with that legislative intent the Board believes it should only reward employers who have participating employees in the Program.

Third and finally, the adoption of subsection (b)(3) is necessary to communicate to the regulated community what is required of them for entrance into either of the two financial incentive drawings created by subsections (b)(1)(A) and (B). For these reasons the Board believes the adoption of subsection (b)(3) is necessary.

**Adopt subsection (b)(4):** The Board proposes to adopt subsection (b)(4) to require participating employers must facilitate at least one contribution to the Program to be eligible for entry into either of the two financial incentive drawings created by subsections (b)(1)(A) and (B). This is necessary for three reasons. First, the goal of this incentive program is to spur employers registering and facilitating the Program early ahead of their registration deadline of December 31, 2025. To facilitate the Program means to send contributions to the Program so for employers to meet that goal they must send contributions. This rule accomplishes that goal of getting employers to facilitate not just register with the Program.

Second, the Board does not want to reward employers for simply registering with the Program, as registering with the Program but not facilitating the Program for participating employees is a violation of Title 21 GOV Code which the Board is charged with implementing and enforcing. To prevent this from happening the Board proposes this rule as it prevents the Board from entering employers who do not take the steps desired by the Board into this incentive drawing and thus prevents the Board from sending incentives to them.

Third, the adoption of subsection (b)(4) communicates to the regulated community what is required of them to enter into the two financial incentive drawings established by subsections (b)(1)(A) and (B). For these reasons, the Board believes that the adoption of subsection (b)(4) is necessary.

**Adopt subsection (c):** The Board proposes to adopt subsection (c) to state that the eligible drawing entrants will be announce on the Board's website ([treasurer.ca.gov/CalSavers](http://treasurer.ca.gov/CalSavers)) at least ten calendar days prior to the announcement of awardees. This is necessary to communicate to the regulated community who are the eligible entrants into the drawings. Additionally, it is necessary to ensure full transparency as to who the eligible entrants are by posting that information on a publicly available website which interested members of the public have access to.

The Board is committed to full transparency and fairness as it relates to this financial incentive Program and the inclusion of subsection (c) among others is an integral part of meeting that commitment. Thus, for these reasons the adoption of subsection (c) is necessary.

**Adopt subsection (d):** The Board proposes to adopt subsection (d) to state that no more than 1,000 awardees will be selected from each financial incentive drawing. The adoption of subsection (d) is necessary for two reasons. First, the rule communicates to the regulated community the maximum number of awardees that will be selected at each of the two drawings established pursuant to subsection (b). Second, the rule is necessary to limit this financial incentive program to no more than \$1,000,000.00 in potential disbursements to awardees.

The Board has allocated \$1,000,000.00 in funds collected via penalty enforcement from non-compliant employers who have to date prevented their employees from participating in the Program to this financial incentive program. The Board wants to ensure that these funds are managed wisely and that the dollars allocated for this program are not overspent on these financial incentives. Thus, the adoption of subsection (d) which limits Board staff to allocating no more than 1,000 in \$500.00 financial incentives (twice) is necessary as it limits the total dollar expenditure of this program to \$1,000,000.00 if the maximum amounts are disbursed.

For these reasons, including communicating to the regulated community the maximum number of awardees per drawing and ensuring Board allocations are managed wisely the adoption of subsection (d) is necessary.

**Adopt subsection (d)(1):** The Board proposes adopting subsection (d)(1) to state that if a financial incentive drawing contains 1,000 or fewer eligible entrants, then all eligible entrants shall be awarded an incentive. This is necessary for two reasons. One, the rule communicates to the regulated community that if any of the two financial incentives drawings has less eligible entrants than the maximum number of potential awardees (1,000), then all the entrants will be awarded a financial incentive. Second, this rule makes administering the drawing and announcement of the financial incentive awardees easier for the Board as staff can announce that all the eligible entrants posted on the Board's website pursuant to subsection (c) are awardees. For these reasons, the adoption of subsection (d)(1) is necessary.

**Adopt subsection (e):** The Board proposes adopting subsection (e) to communicate to the regulated community that awardees of this financial incentive program will be selected and announced at a Board meeting or a public hearing held by the Executive Director of the Board or their Designee. The purpose behind this is to conduct one of the most critical aspects of this incentive program (selecting and announce awardees) in full view of the public thus achieving transparency and accountability of this program to the public.

The Board recognizes that because financial incentives are being offered to employers that naturally members of the public may be concerned about the transparency surrounding who receives the incentives and how awardees are selected. In conducting these key steps in full view of the public the Board hopes that it is adequately addressing this concern. For these reasons the Board believes the adoption of subsection (e) which requires the Board to select and financial incentive awardees in a public forum is necessary.

**Adopt subsection (e)(1):** The Board proposes adopting subsection (e)(1) to require that Board staff use a random number generator to select financial incentive awardees at the public forum mentioned in subsection (e). Similar to the concerns stated in subsection (e) Board staff recognize that members of the public may have heightened scrutiny around the fairness of selecting awardees.

Board staff believe using a random number generator is the most prudent solution to address this reasonable concern because random number generators provide a safe, secure, unbiased, and expedient way to select a large group of awardees (up to 1,000) at a public forum. For these reasons the Board believes that the adoption of subsection (e) is necessary to maintain transparency, accountability, and fairness around how financial incentive awardees are selected.

**Adopt subsection (e)(2):** The Board proposes to adopt subsection (e)(2) to stipulate that if a public hearing is held to announce the financial incentive awardees, Board staff shall provide the time, date, and place of the hearing to the public by publishing those details on the Board's website ([treasurer.ca.gov/CalSavers](http://treasurer.ca.gov/CalSavers)) and by mailing or emailing the notice to every person who has filed a request for notice with the Board no less than ten calendar days before the hearing. Similar to the concerns expressed in subsection (e) Board staff want to ensure that members of the public receive adequate opportunity to participate and/or observe the selection and announcement of these financial incentive awardees in a public forum.

To address those concerns the Board believes providing the public with most of the same transparency rights for a public hearing as the public would be afforded under the Bagley-Keene Open Meeting Act (GOV Code Title 2 Division 3 Part 1 Chapter 1 Article 9 commencing with Section 11120) for a Board meeting is of importance. Those rights include among other things being notified of the time, date, place of hearing, and the

opportunity to attend said hearing at least ten days prior to said hearing. For these reasons, Board staff believe the adoption of subsection (e)(2) is necessary.

**Adopt subsection (f):** The Board proposes adopting subsection (f) to automatically include participating employers who were entered into the first drawing under subsection (b)(1)(A) but were not announced as an awardee from that drawing into the second drawing under subsection (b)(1)(B). The adoption of this rule is necessary to further encourage and incentivize employers register and facilitate the Program earlier by rewarding those that do so between January 1-July 31, 2025, with two opportunities to receive a financial incentive through this program.

**Adopt subsection (g):** The Board proposes adopting subsection (g) to state that participating employers may receive only one financial incentive issued pursuant to this Section. This is necessary to inform the regulated community (employers) how many \$500 financial incentives they may receive and to prevent the Program Administrator from sending multiple disbursements of \$500 to the same employer. This rule also ensures that the \$1,000,000 in penalty funds the Board is using for this program are spent on the maximum number of employers as possible (2,000 employers). For these reasons the Board believes the adoption of subsection (g) is necessary.

**Adopt subsection (h):** The Board proposes to adopt subsection (h) to state, “Notwithstanding any provision of this Section, failure to meet the terms and conditions enumerated in this Section will disqualify awardees from receiving a financial incentive issued by the Board pursuant to this Section.”

This is necessary to ensure that employers are fully aware that they must continue to meet the conditions for eligibility to receive a financial incentive and that those conditions do not expire after being entered into a drawing. By adopting this provision, the Board hopes to improve transparency concerning who is eligible and who is not eligible to receive a financial incentive issued by the Board.

**Adopt subsection (i):** The Board proposes adoption subsection (i) to create a self-executing sunset provision that communicates to the regulated community that Section 10012 will be in effect until 1/1/2028 and as of that date is repealed. This is necessary to repeal Section 10012 after the Program incentives are no longer available due to funds being drawn down and incentive drawing dates being closed. It is also necessary to remove Section 10012 after the rules contained in the Section are no longer applicable to the regulated community and have thus become unnecessary to include in the Board’s regulations.

### **Economic Impact Assessment**

These regulations amendments do not alter the cost impacts on a representative person or business, as they do not mandate or compel the regulated community to take any new action beyond what already exists in Title 21 GOV Code. The amendments to the Board’s registration regulations contained in Title 10 CCR Section 10002 subsection (a)(4) and (b) align the Board’s regulations with Title 21 GOV Code Section 100032

which require employers have a payroll deposit retirement savings arrangement with the Board by specified deadlines.

The other proposed regulations (Title 10 CCR Section 10012) which create an optional financial incentive program for employers result in zero mandated costs on the regulated community as employers are not required, compelled, or mandated to comply with these proposed regulations. Employers may choose to comply with the regulations to qualify for the opportunity to receive incentives by taking optional steps to participate in the Program before their participation deadline. Any steps taken by these employers to qualify for the opportunity to receive a financial incentive are entirely volitional.

As a result, the Board has made the following determinations.

**Creation or elimination of jobs in California:** no impact

**Creation of new businesses or elimination of existing businesses in California:** no impact

**Expansion of businesses currently doing business in California:** no impact

**Benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment:**

The proposed regulations may benefit the health and welfare of California residents by incentivizing the smallest businesses in the State comply with the CalSavers mandate before the 12/31/2025 deadline. This benefit would extend to Californian workers saving through the Program since they would gain access to a way to save for retirement through work sooner than the expected deadline compliance date. In a broader scope, this may stimulate the California economy by having more money invested in stocks and other investment vehicles earlier than expected. In a long-term view, this may improve the lives of Californians in retirement, as they would be more financially secure and rely less on social benefits programs by gaining access to the Program a little earlier than they ordinarily would (Assuming their employer joins the Program early).

**Cost Impacts on Representative Person or Business**

The proposed regulations will have no additional cost burdens upon employers beyond what already exists in the Board's regulations.

The proposed amendments to the employer registration regulations contained in Section 10002 will represent no cost to the employer as those changes are being made to align the regulations with existing state law (see Section 1000032 GOV Code). If no change were made employers would still have to register and establish a payroll deposit retirement savings arrangement with the Program by their program participation deadline.

Additionally, the proposed financial incentive regulations and the associated incentive program are entirely optional for employers. Employers may but are not required to register and establish a payroll deposit retirement savings arrangement with the

Program ahead of their Program participation or exemption deadline. To the extent that employers register and facilitate the Program earlier than they are required to for entrance into the financial incentive drawings is entirely volitional for the employer.

**Business Report**

The proposed regulations do not require any reports to be made by any business or other entity.

**Small Business**

Small business compliance with the regulations will result in no cost to small businesses. The same rationale explained in the “Cost Impacts on Representatives Person or Business” section applies to small businesses as well.

Lastly, the regulations do not require small business to enforce them and as such do not provide any benefit nor detriment regarding enforcement by a small business.

**Evidence Supporting Finding of no Significant Statewide Adverse Economic Impact Directly Affecting Business**

Based on the cost impacts stated above, the Board concludes that the proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including ability of California businesses to compete with businesses in other states.

**Specific Technologies or Equipment**

None.

**Technical, Theoretical, and Empirical Study, Report, or Similar Document on Which The Agency Relies**

None for this rulemaking.