

NOTICE OF PROPOSED RULEMAKING ACTION
Title 10, Chapter 15, CalSavers Retirement Savings Board, California Code of
Regulations

Amendment to the California Code of Regulations, Title 10 Chapter 15, Regarding the
CalSavers Retirement Savings Program

Notice Published April 25, 2025

Notice is hereby given that the CalSavers Retirement Savings Board (Board) is proposing to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed regulations.

Public Proceedings

The Board is conducting a 45-day written public proceeding during which time any interested person or such person's duly authorized representative may present statements, arguments, or contentions (all of which are hereinafter referred to as comments) relevant to the action described in the Informative Digest/Policy Statement Overview section of this notice.

To request copies of the regulatory proposal in an alternate format, please write: 901 P Street, Suite 313B, Sacramento, CA 95814, email Tristan.Woolacott@treasurer.ca.gov, or call (916) 653-1748.

Written Comment Period

Written comments pertaining to this proposal, regardless of the method of transmittal, must be received by the Board by June 9, 2025, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely.

Written comments must be submitted as follows:

By email

CalSavers@sto.ca.gov.

It is requested that email transmission of comments, particularly those with attachments, contain "regulation" in the subject line; to facilitate timely identification and review of the comment;

By regular mail

CalSavers Retirement Savings Board
Re: Rulemaking for the CalSavers Retirement Savings Program
P.O. Box 942809
Sacramento, CA 95815

By courier delivery

CalSavers Retirement Savings Board

Re: Rulemaking for the CalSavers Retirement Savings Program
901 P Street, Suite 313B
Sacramento, CA 95814

Public Hearing

A public hearing has not been scheduled for this rulemaking action. However, the Board will conduct a public hearing if a written request for a public hearing is received from any interested person, or their authorized representative, no later than 15 days prior to the close of the written comment period, pursuant to Government Code Section 11346.8.

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.

Informative Digest/Policy Statement Overview

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.

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.

Documents or Forms Incorporated by Reference

None for this rulemaking.

Mandate by Federal Law or Regulations

None.

Other Statutory Requirements

None.

Local Mandate

The Board has determined that this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs that require state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the GOV Code.

Fiscal Impact Statements

Fiscal Impact

The Program is funded through administrative fees assessed on the assets invested in the Program. As established under GOV Code Section 100050, startup costs for the Program are appropriated from the General Fund in the annual Budget Act in the form of a loan and are required to be repaid through the fees assessed on the Program fund, with interest calculated at the rate earned by the Pooled Money Investment Account.

The Board estimates direct costs as follows:

Cost to any local agency or school district requiring reimbursement: No impact

Costs or savings to any state agency:

The Board will incur up to, but no more than, \$1,000,000.00 in one-time costs as a result of these proposed regulations. These costs are a result of offering up to 2,000 one-time \$500.00 financial incentives to participating employers that register and facilitate the Program from 1/1/2025-11/30/2025 and to employers with one to four California employees that registered with the Program before 1/1/2025 and continue to facilitate the Program to date. The Board already has existing funds in its current budget to use for these financial incentives. These funds are a result of collecting financial penalties from California employers that have not complied with Title 21 GOV Code by failing to permit their employees to participate in the Program.

Any activities that the Board and the Board's Administrator (Ascensus College Recordkeeping Services, LLC "Ascensus") will do as a result of offering and administering these financial incentives will come at no new cost to the Board or the Administrator as those activities can and will be absorbed into existing operating budgets. These activities include promoting the financial incentives, creating social media content, drawing and announcing awardees, and disbursing the incentives to awardees.

Most of these activities are already conducted by Board staff and the Administrator, albeit concerning different subjects. First, the Administrator already promotes the Program and the Board through emails, letters, postcards, and paid advertising. Promoting these financial incentives can easily be folded into future promotions that already concern the Program and the Board. Second, Board staff already create and post social media content highlighting important aspects of the Program, employer experiences, and participant testimonials. Adding the promotion of the financial incentive program to Board social media posts will be no different in terms of effort or frequency than highlighting aspects of the Program. Third, the Board will do two drawings and announcements of the financial incentive awardees at either Board meetings or public hearings which are held by the Board at no cost to the Board (excluding compensating Board member travel). If the Board announces awardees at a Board meeting, Board staff will schedule the announcement at one of the four quarterly Board meetings which would be held regardless of announcing awardees or not. Alternatively, holding public hearings to draw and announce awardees will result in no cost to the Board as the Board is able to absorb staff costs and can host public hearings using the existing Board room in which Board meetings are held. The act of drawing and announcing awardees will be entirely absorbable under the existing Board budget regardless of whether the act is done at a Board meeting or a public hearing.

In summary the total costs to the Board will be up to \$1,000,000.00 for offering and conducting a financial incentive program to employers in California. The funds used for the incentive program are sourced exclusively from penalty revenue collected by the Board through enforcement of Title 21 GOV Code on employers that have failed to comply with the law. The other activities conducted by Board staff and the Administrator associated with this incentive program (mentioned above) will come at no cost to the Board as those activities will be completed within the Board's current budget.

Nondiscretionary cost or savings imposed on local agencies: No impact.

Cost or savings in federal funding to the state: No impact.

Housing Costs: The Board has determined that these regulations will not affect housing costs.

Results of the 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.

Local Mandate

The proposed regulations do not impose any mandate on local agencies or school districts. There are no “state mandated local costs” in these regulations that require reimbursement under Government Code, Title 2, Division 4, Part 7.

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 Relied

None for this rulemaking.

Contact Person

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Tristan Woolacott of the Board, at Tristan.Woolacott@treasurer.ca.gov or (916) 653-1748.

Back-Up Contact Person

In the event the primary contact person listed above is unable to be contacted, inquiries regarding the proposed regulations described in this notice may be directed to Jacob Schafer, at Jacob.Schafer@treasurer.ca.gov.

Availability Statements

The Board will have the rulemaking file available for inspection online at treasurer.ca.gov/calsavers/regulations/index.asp. To request a physical inspection of the rulemaking file, please contact the contact persons identified above in the “Contact Person” section and they will schedule a time and location for the inspection.

As of the date of this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the economic and fiscal impact analysis, and the initial statement of reasons. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Board adopts the regulation as revised. Please send requests for copies of any modified text to the attention of Tristan Woolacott at Tristan.Woolacott@treasurer.ca.gov. The Board will accept written comments on the modified text for 15 days after the date on which it is made available.

Copies of this rulemaking action may be obtained by contacting Tristan Woolacott at Tristan.Woolacott@treasurer.ca.gov or by calling the phone number listed above in the “Contact Person” section.

Final Statement of Reasons

A copy of the final statement of reasons (when prepared) will be available upon written request by contracting the person identified above in the “Contact Person” section of this notice.

Internet Access

Materials regarding the action described in this notice (including this public notice, the text of the proposed regulations, and the initial statement of reasons) are available via the Internet may be accessed clicking on this link treasurer.ca.gov/calsavers/regulations/index.asp and locating the regulations under the header “Regular Rulemaking (posted April 25, 2025).”