

Senate Bill No. 923

CHAPTER 737

An act to add Sections 100002 and 100043.5 to the Government Code, relating to retirement savings plans.

[Approved by Governor September 28, 2012. Filed with
Secretary of State September 28, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 923, De León. Retirement savings plans.

SB 1234 of the 2011–12 Regular Session would establish the California Secure Choice Retirement Savings Trust, to be administered by the California Secure Choice Retirement Savings Investment Board, containing 7 members.

This bill would, contingent upon the enactment of SB 1234, instead expand the board membership to 9 members, as specified. The bill would further prohibit the board from opening the trust program for enrollment without a subsequent authorizing statute.

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

SECTION 1. Section 100002 is added to the Government Code, to read:

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

(A) The Treasurer.

(B) The Director of Finance, or his or her designee.

(C) The Controller.

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

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

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

(G) A public member appointed by the Governor.

(H) Two additional members appointed by the Governor.

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

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

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

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

(2) Borrow any funds or deposits of the trust, or use those funds or deposits in any manner, for himself or herself or as an agent or partner of others.

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

(d) The board and the program administrator and staff shall discharge their duties with respect to the trust solely in the interest of the program participants as follows:

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

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

(e) (1) The board shall annually prepare and adopt a written statement of investment policy that includes a risk management and oversight program. The board shall consider the statement of investment policy and any changes in the investment policy at a public hearing.

(2) The investment policy shall adhere to the following guiding principles:

(A) The primary objective of the investment policy is to preserve the safety of principal and provide a stable and low-risk rate of return.

(B) The investment policy shall mitigate risk by maintaining a balanced investment portfolio that provides assurance that no single investment or class of investments will have a disproportionate impact on the total portfolio.

(3) The following list represents the entire range of asset categories that the board may consider and the only types of investments which shall be permitted for the investment of funds:

(A) Domestic equities and international equities.

(B) Medium-term and long-term debt obligations of domestic corporations.

(C) United States government and government sponsored entity debt obligations.

(D) Real estate commingled funds that invest in publicly traded real estate securities.

(E) Money market instruments, cash, and money market mutual funds that are registered in the United States and denominated in United States dollars.

(F) Investments in mutual funds, but limited to existing, rated mutual funds, that are registered in the United States and denominated in United States dollars.

(G) Insurance agreements.

(H) FDIC-insured bank products.

(4) Equities shall not exceed 50 percent of the overall asset allocation of the fund.

(5) The investment policy shall also adhere to the following restrictions:

(A) Borrowing for investment purposes, or leverage, is prohibited.

(B) Instruments known as variable rate demand notes, floaters, inverse floaters, leveraged floaters, and equity-linked securities are not permitted. Investment in any instrument, which is commonly considered a “derivative” instrument, including, but not limited to, options, futures, swaps, caps, floors, and collars, is prohibited.

(C) Contracting to sell securities not yet acquired in order to purchase other securities for purposes of speculating on developments or trends in the market is prohibited.

(6) The risk management and oversight program shall be designed to ensure that an effective risk management system is in place to monitor the risk levels of the California Secure Choice Retirement Savings Program investment portfolio and ensure that the risks taken are prudent and properly managed. The program shall be managed to provide an integrated process for overall risk management on both a consolidated and disaggregated basis, and to monitor investment returns as well as risk to determine if the risks taken are adequately compensated compared to applicable performance benchmarks and standards.

(f) The board shall approve an investment management entity or entities, the costs of which shall be paid out of funds held in the trust and shall not be attributed to the administrative costs of the board in operating the trust. Not later than 30 days after the close of each month, the board shall place on file for public inspection during business hours a report with respect to investments made pursuant to this section and a report of deposits in financial institutions. The investment manager shall report the following information to the board within 20 days following the end of the each month:

(1) The type of investment, name of the issuer, date of maturity, and the par and dollar amount invested in each security, investment, and money within the program fund.

(2) The weighted average maturity of the investments within the program fund.

(3) Any amounts in the program fund that are under the management of private money managers.

(4) Any amounts in the program fund that are under the management of the Board of Administration of the Public Employees’ Retirement System.

(5) The market value as of the date of the report and the source of this valuation for each security within the program fund.

(6) A description of compliance with the statement of investment policy.

SEC. 2. Section 100043.5 is added to the Government Code, to read:

100043.5. The board shall not open the program for enrollment until a subsequent authorizing statute is enacted that expresses the approval of the Legislature for the program to be fully implemented.

SEC. 3. This act shall become operative if this bill and Senate Bill 1234 of the 2011–12 Regular Session of the Legislature are both enacted and become law and this bill is enacted last, in which case Section 100002 of the Government Code, as added by this bill, shall become operative and

Section 100002 of the Government Code as added by Senate Bill 1234 shall not become operative.

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