

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 937

Introduced by Assembly Member Wieckowski

February 22, 2013

An act to amend ~~Section 100004 of the Government Code, relating to retirement savings. Section 2351 of the Probate Code, relating to conservators and guardians.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 937, as amended, Wieckowski. ~~The California Secure Choice Retirement Savings Trust. Conservators and guardians: personal rights of conservatees.~~

Existing law requires that a guardian or conservator of a person be responsible for the care, custody, control, and education of a ward or conservatee, subject to a court's determination of the extent of those powers, as specified.

This bill would provide that the conservator's control of the conservatee shall not extend to personal rights retained by the conservatee, including, but not limited to, the right to receive visitors, telephone calls, and mail, unless specifically limited by a court order.

~~Existing law, contingent upon the receipt of sufficient funds to make the program operative, creates the California Secure Choice Retirement Savings Trust for the purpose of promoting greater retirement savings for California private employees in a convenient, voluntary, low-cost, and portable manner.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

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

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

1 SECTION 1. Section 2351 of the Probate Code is amended to
2 read:

3 2351. (a) Subject to subdivision (b), the guardian or
4 conservator, but not a limited conservator, has the care, custody,
5 and control of, and has charge of the education of, the ward or
6 conservatee. *This control shall not extend to personal rights*
7 *retained by the conservatee, including, but not limited to, the right*
8 *to receive visitors, telephone calls, and mail, unless specifically*
9 *limited by court order.*

10 (b) Where the court determines that it is appropriate in the
11 circumstances of the particular conservatee, the court, in its
12 discretion, may limit the powers and duties that the conservator
13 would otherwise have under subdivision (a) by an order stating
14 either of the following:

15 (1) The specific powers that the conservator does not have with
16 respect to the conservatee’s person and reserving the powers so
17 specified to the conservatee.

18 (2) The specific powers and duties the conservator has with
19 respect to the conservatee’s person and reserving to the conservatee
20 all other rights with respect to the conservatee’s person that the
21 conservator otherwise would have under subdivision (a).

22 (c) An order under this section (1) may be included in the order
23 appointing a conservator of the person or (2) may be made,
24 modified, or revoked upon a petition subsequently filed, notice of
25 the hearing on the petition having been given for the period and
26 in the manner provided in Chapter 3 (commencing with Section
27 1460) of Part 1.

28 (d) The guardian or conservator, in exercising his or her powers,
29 may not hire or refer any business to an entity in which he or she
30 has a financial interest except upon authorization of the court. Prior
31 to authorization from the court, the guardian or conservator shall
32 disclose to the court in writing his or her financial interest in the
33 entity. For the purposes of this subdivision, “financial interest”
34 shall mean (1) an ownership interest in a sole proprietorship, a
35 partnership, or a closely held corporation, or (2) an ownership

1 interest of greater than 1 percent of the outstanding shares in a
2 publicly traded corporation, or (3) being an officer or a director
3 of a corporation. This subdivision shall apply only to conservators
4 and guardians required to register with the Statewide Registry
5 under Chapter 13 (commencing with Section 2850).

6 ~~SECTION 1. Section 100004 of the Government Code is~~
7 ~~amended to read:~~

8 ~~100004. (a) There is hereby established a retirement savings~~
9 ~~trust known as the California Secure Choice Retirement Savings~~
10 ~~Trust to be administered by the board for the purpose of promoting~~
11 ~~greater retirement savings for California private employees in a~~
12 ~~convenient, voluntary, low-cost, and portable manner. After~~
13 ~~sufficient funds are made available for this title to be operative~~
14 ~~pursuant to Section 100042, the California Secure Choice~~
15 ~~Retirement Savings Trust, as a self-sustaining trust, shall pay all~~
16 ~~costs of administration out of moneys on deposit in the trust.~~

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

23 ~~(c) Moneys in the program fund may be invested or reinvested~~
24 ~~by the Treasurer, or may be invested in whole or in part under~~
25 ~~contract with the Board of Administration of the Public Employees'~~
26 ~~Retirement System or private money managers, or both, as~~
27 ~~determined by the board.~~

28 ~~(d) Transfers may be made from the program fund to the~~
29 ~~administrative fund for the purpose of paying operating costs~~
30 ~~associated with administering the trust and as required by this title.~~
31 ~~On an annual basis, expenditures from the administrative fund~~
32 ~~shall not exceed more than 1 percent of the total program fund.~~
33 ~~All costs of administration of the trust shall be paid out of the~~
34 ~~administrative fund. Operating costs associated with administering~~
35 ~~the trust do not include the procurement of private underwriting~~
36 ~~for the retirement savings' return.~~

37 ~~(e) Any contributions paid by employees and employers into~~
38 ~~the trust shall be used exclusively for the purpose of paying benefits~~
39 ~~to the participants of the California Secure Choice Retirement~~

- 1 Savings Program, for the cost of administration of the program,
- 2 and for investments made for the benefit of the program.

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