

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

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|--|-----------------------|--|-------------------|
| Fiscal Year 2016/2017 | Business Unit 0984 | Department California Secure Choice Retirement Savings Investment Board | Priority No. 1 |
| Budget Request Name 0984-001-BCP-BR-2016-GB | | Program 0910-Secure Choice Retirement Savings | Subprogram |

Budget Request Description
 Item 0984-001-8081, Budget Act of 2015 as reappropriated by Item 0984-490, Budget Act of 2016

Budget Request Summary

The California Secure Choice Retirement Savings Investment Board (Board) requests a reappropriation of the remainder of the balance of its fiscal year 2015-16 \$1,000,000 appropriation (estimated to be \$200,000), as well as continue existing provisional language allowing for additional expenditure authority if needed (subject to Department of Finance approval and legislative notification), in order to conduct a market analysis, financial feasibility study, and legal analysis to determine whether the necessary conditions for implementation of the California Secure Choice Retirement Savings Program can be met, as specified in Chapter 734, Statutes of 2012 (SB 1234).

This request will not impact the General Fund as the Board has raised \$1,000,000 in donations to initiate and complete the required analysis.

| | |
|---|--|
| Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Code Section(s) to be Added/Amended/Repealed |
|---|--|

| | | |
|---|----------------|-------------|
| Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i> | Department CIO | Date N/A |
|---|----------------|-------------|

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.

FSR SPR Project No. Date:

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

| | | | |
|---------------------|------|---|-------------------------|
| Prepared By | Date | Reviewed By | Date |
| Department Director | Date | Agency Secretary <i>Vincent P. Brown</i> | Date <i>12/15/15</i> |

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

| | |
|----------------------------|--|
| PPBA <i>[Signature]</i> | Date submitted to the Legislature <i>1/7/16</i> |
|----------------------------|--|

BCP Fiscal Detail Sheet

BCP Title: Feasibility Study

DP Name: 0984-001-BCP-DP-2016-GB

Budget Request Summary

| | CY | BY | BY+1 | FY16 BY+2 | BY+3 | BY+4 |
|--|---------------|--------------|------------|--------------|------------|------------|
| Operating Expenses and Equipment | | | | | | |
| 5340 - Consulting and Professional Services - External | -200 | 200 | 0 | 0 | 0 | 0 |
| Total Operating Expenses and Equipment | -\$200 | \$200 | \$0 | \$0 | \$0 | \$0 |
| Total Budget Request | -\$200 | \$200 | \$0 | \$0 | \$0 | \$0 |

Fund Summary

| | | | | | | |
|--|---------------|--------------|------------|------------|------------|------------|
| Fund Source - State Operations | | | | | | |
| 8081 - Secure Choice Retirement Savings Program Fund | -200 | 200 | 0 | 0 | 0 | 0 |
| Total State Operations Expenditures | -\$200 | \$200 | \$0 | \$0 | \$0 | \$0 |
| Total All Funds | -\$200 | \$200 | \$0 | \$0 | \$0 | \$0 |

Program Summary

| | | | | | | |
|---|---------------|--------------|------------|------------|------------|------------|
| Program Funding | | | | | | |
| 0910 - California Secure Choice Retirement Savings Investment Board | -200 | 200 | 0 | 0 | 0 | 0 |
| Total All Programs | -\$200 | \$200 | \$0 | \$0 | \$0 | \$0 |

Analysis of Problem

A. Budget Request Summary

Chapter 734, Statutes of 2012 (SB 1234) requires the California Secure Choice Retirement Savings Investment Board (Board) to conduct a market analysis and financial feasibility study to determine whether the necessary conditions for implementation of the California Secure Choice Retirement Savings Program ("Secure Choice" or "the Program") can be met. These conditions include, but are not limited to: likely participation rates, participant's comfort with various investment vehicles and degree of risk, contribution levels, and the rate of account closures and rollovers. Additionally, SB 1234 specifies that the Board shall not implement the Program if it fails to qualify for the same federal income tax treatment ordinarily afforded to Individual Retirement Accounts or Individual Retirement Annuities (IRAs) or if it is determined that the program is an employee benefit plan under the federal Employee Retirement Income Security Act (ERISA). In order to fulfill its obligations, the Board has hired a firm to conduct the market analysis and financial feasibility study and a law firm for required legal services.

The studies, and the staff work related to procurement for the studies, must be paid completely with donated funds. The Board has received \$1,000,000 in funding to date.

The Board entered into an agreement with a firm for market analysis, financial feasibility study, and program design work. Additionally, the Board entered into an agreement with a firm for legal services. Staff expect both studies to be completed by Spring 2016.

The Board requests a reappropriation of the remainder of the balance of its fiscal year 2015/16 \$1,000,000 appropriation for residual consulting costs (estimated to be \$200,000), as well as continue existing provisional language allowing for additional expenditure authority if needed (subject to Department of Finance approval and legislative notification).

To that end, the following specific language is proposed for inclusion in the Budget Act of 2016:

0984-490—Reappropriation, California Secure Choice Retirement Savings Investment Board. The balances of the appropriations provided in the following citations are reappropriated for the purposes provided for in those appropriations and shall be available for encumbrance or expenditure until June 30, 2017.

The budgetary provision included in the item below shall apply to the 2016–17 fiscal year:

*8081—Secure Choice Retirement Savings Program Fund
(1) Item 0984-001-8081, Budget Act of 2015 (Chs. 10 and 11, Stats. 2015)*

B. Background/History

SB 1234 establishes the California Secure Choice Retirement Savings Investment Board (Board) and the California Secure Choice Retirement Savings Trust Act for the purpose of creating a statewide program known as the California Secure Choice Retirement Savings Program ("Secure Choice" or "the Program"). Secure Choice will exist to provide a statewide retirement savings plan for private-sector workers who lack access to an employer-sponsored retirement savings plan.

SB 1234 requires the Board to conduct a market analysis and financial feasibility study and legal analysis to determine whether the necessary conditions for implementation of the Program can be met.

SB 1234 further provides that the operational provisions of the California Secure Choice Retirement Savings Trust Act shall be operative only if the Board determines that, based on the market analysis and financial feasibility study, the provisions will be self-sustaining, and sufficient funds are made available through a non-profit or private entity, federal funding, or the annual Budget Act, as specified, to allow the program to be implemented until the trust has sufficient funds to be self-sustaining.

Additionally, Chapter 737, Statutes of 2012 (SB 923), provides that the Board shall not open SCRSP for enrollment until a subsequent authorizing statute is enacted that expresses the approval of the Legislature for the Program's implementation.

Analysis of Problem

Resource History (Dollars in thousands)

| Program Budget | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 |
|-------------------------|---------|---------|---------|---------|---------|
| Authorized Expenditures | N/A | N/A | N/A | \$1,000 | \$995 |
| Actual Expenditures | N/A | N/A | N/A | \$4 | \$274 |

C. State Level Considerations

As stated in SB 1234, “the implementation and effectuation of the California Secure Choice Retirement Savings Trust constitutes the carrying out of a valid and vital public purpose”. SB 1234 findings and declarations also include, but are not limited to, the following state level considerations:

- Middle class families in California are at significant risk of lacking sufficient retirement income to meet even basic expenses, as nearly 50 percent of middle-income California workers will retire at or near poverty.
- The lack of sufficient retirement savings poses a significant threat to the state’s already strained safety net programs and also threatens to undermine California’s fiscal stability and ongoing economic recovery.
- The looming retirement security crisis exacerbates the state’s high unemployment rate, as seniors are forced to work longer and fewer jobs are available for younger workers trying to enter the workforce.
- The California Secure Choice Retirement Savings Trust established by this act will promote expanded retirement security for working Californians.

These findings and declarations support the need for the California Secure Choice Retirement Savings Trust Act. The first step toward its implementation is completion of the required market analysis and financial feasibility study and the legal analysis.

D. Justification

The implementation and effectuation of the Program is contingent upon the market analysis and financial feasibility study and the legal analysis. The studies will be conducted using only funds made available through a non-profit or private entity, or from federal funding. The Board has received its fundraising target of \$1,000,000. The Board has entered into an agreement with the law firm K&L Gates to conduct the legal analysis. The Board has also entered into an agreement with a firm for market analysis, financial feasibility study, and program design work. Both firms are expected to complete their studies by Spring of 2016.

The Board requests a reappropriation of the remainder of the balance of its fiscal year 2015-16 \$1,000,000 appropriation for residual consulting costs (estimated to be \$200,000), as well as continuing existing provisional language allowing for additional expenditure authority if needed (subject to Department of Finance approval and legislative notification).

During the course of the last six months, the consultants have uncovered additional legal issues that will likely need to be addressed in 2016. Some of these issues will require staff to engage with the Securities and Exchange Commission (SEC) regarding the need for an exemption letter. The exemption letter would ensure the fund would not need to register with the SEC as a security given it is a fund overseen by a government entity. There are other government funds for private sector investments that have a similar exemption; an example is the College Savings Program (ScholarShare 529 plan). Since Secure Choice does not have permanent full time staff, the need for outside counsel and future consultation work is likely. The Legislature will likely require experts be available for legislative hearings for staff to clarify study findings. There is potential some of the current contracts that are set to expire may need to be extended or if that is not possible, the need to enter into new contracts for this work.

Analysis of Problem

E. Outcomes and Accountability

SB 1234 requires the Board to forward and offer to present the findings of the market analysis and financial feasibility study to the Chair of the Senate Labor and Industrial Relations Committee, the Chair of the Assembly Labor and Employment Committee, the Chair of the Senate Public Employment and Retirement Committee, and the Chair of the Assembly Public Employees, Retirement and Social Security Committee. SB 1234 further provides that the operational provision of the Program shall be operative only if the Board notifies the Director of Finance that, based upon the market analysis and financial feasibility study, the Program can be self-sustaining and only if implementation costs are made available through a non-profit or private entity, federal funding, or the annual Budget Act, as specified, to allow the Board to implement the program until the trust has sufficient funds to be self-sustaining.

Additionally, the firm selected to conduct the market analysis and financial feasibility study is required to submit monthly progress reports to the Board describing the work performed, work status, work progress difficulties encountered, remedial action, and statement of activity anticipated subsequent to reporting period for approval prior to payment of invoices.

Regarding the legal analysis, the outcome will be the receipt of determinations from the IRS as to whether the accounts offered in the Program receive the same tax treatment ordinarily afforded to IRAs and the determination from DOL as to whether or not the Program would be considered an employee benefit plan subject to ERISA. The firm has been engaged with the US Department of Labor since they began working for the Board. The Board is encouraged by the recent announcement by President Obama regarding the proposal of a rule to clarify that state plans like Secure Choice are not subject to ERISA.

F. Analysis of All Feasible Alternatives

Alternative 1: Provide a reappropriation of the remainder of the balance of the existing expenditure authority of \$1,000,000 for residual consulting costs (currently estimated at \$200,000), and continuing existing provisional language for providing for additional expenditure authority if needed (subject to Department of Finance approval and legislative notification). This alternative would enable the Board to enter into additional contract agreements for any unanticipated legal issues with the Securities and Exchange Commission. Furthermore, this alternative would enable staff to ensure the full completion of the study, as well as provide expertise to the Legislature on its findings.

Alternative 2: Deny the reappropriation of the remainder of the balance of the existing expenditure authority of \$1,000,000, and deny the continuing existing provisional language providing for additional expenditure authority if necessary (subject to Department of Finance approval and legislative notification). This would deny the Secure Choice Board the ability to see the study through the legislative process. Additionally, this alternative would deny the Secure Choice Board the ability to enter into future contracts to address unanticipated legal issues with the Securities and Exchange Commission.

G. Implementation Plan

The purpose of the appropriation is to ensure Secure Choice staff can spend the remaining funds for residual consulting costs or other activities related to the study that may be required. The studies, and the staff work related to procurement for the studies, will be paid with donated funds. The Board received \$1,000,000 in funding in FY 2014-15 and expect that approximately \$200,000 will be left for the 2016-17 fiscal year.

H. Supplemental Information

N/A

I. Recommendation

Alternative 1.