LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4134

STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JANUARY 14, 2019

SUMMARY

Synopsis: "New Jersey Secure Choice Savings Program Act"; establishes retirement savings program for certain workers; establishes standard contribution level of 3 percent.

Type of Impact: State Expenditure and Revenue Increase.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	
State Cost	Indeterminate
State Revenue	Indeterminate

- The Office of Legislative Services (OLS) notes that the bill will result in an indeterminate increase in State administrative expenditures for the Department of the Treasury, tied to start-up and initial implementation of state-sponsored Individual Retirement Accounts (IRAs) by the New Jersey Secure Choice Savings Board, which is established under the bill.

- The costs incurred by the New Jersey Secure Choice Savings Board to administer the program, and the administrative fees charged to employees participating in the program, comprise an indeterminate annual increase in State expenditures and revenue. The extent to which administrative fee revenue may exceed or fall short of administrative costs in any given fiscal year cannot be predicted.

- The OLS also notes that the bill will result in an indeterminate State revenue increase equal to the penalty payments by employers who do not comply with the provisions of the bill.

BILL DESCRIPTION

This bill establishes the "New Jersey Secure Choice Savings Program" (program), a retirement savings program in the form of an automatic enrollment payroll deduction

Individual Retirement Account (IRA) for certain private sector employees. The program facilitates portable retirement savings for private sector employees employed by "employers" and "small employers," as defined by the bill.

The bill creates the New Jersey Secure Choice Savings Board (board) to implement the program and oversee the New Jersey Secure Choice Administrative Fund, created to be used to pay administrative expenses incurred by the board in the performance of its duties. The administrative fund may receive any grants or other moneys designated for administrative purposes from the State, or any federal or local government, or other person, firm, partnership, or corporation.

The bill sets forth several duties of the board with respect to implementing the program, including appointing a fund trustee, governing risk management, determining investment options, entering into contracts necessary for the administration of the program and the fund, employing a staff to support the implementation of the program, and conducting a performance review of any investment vendors. The bill also requires the board to establish a process for enrollment in the program, opting out of participation, selecting a contribution level and investment option, and terminating participation. The bill provides that other duties of the board include accepting grants, appropriations, or other moneys from the State, any unit of federal, State, or local government, or any other person, firm, partnership or corporation for deposit into the fund, whether for investment or administrative purposes, making provisions for the payment of administrative costs and expenses for the creation, and management and operation of the program. The board is charged with keeping annual administrative fees, which include investment fees, as low as possible, but not to exceed 0.6 percent of the fund's total balance. During the first three years of the program, annual administrative fees may be set at not more than 0.75 percent of the fund's total balance. The bill also provides that subject to appropriation, the State may pay administrative costs associated with the creation and management of the program until sufficient assets are available in the fund for that purpose.

The bill provides that the State has no duty or liability to any party for the payment of any retirement savings benefits accrued by any individual under the program. The bill requires that any financial liability for the payment of retirement savings benefits in excess of funds available under the program be borne solely by the entities with whom the board contracts to provide insurance to protect the value of the program. No State entity, board, commission, or agency, or any officer, employee, or member thereof is liable for any loss or deficiency resulting from particular investments selected under the bill, except for any liability that arises out of a breach of fiduciary duty.

Finally, the bill establishes penalties for employers who, without reasonable cause, fail to enroll employees who have not opted out of participation in the program. Those employers are subject to: for the first calendar year during which at any point a violation occurs, a written warning by the department; for the second calendar year during which at any point a violation occurs, a fine of $100; for the third and fourth calendar year during which at any point a violation occurs, a fine of $250 for each employee who was neither enrolled in nor opted out of participation in the program; and for the fifth and any subsequent calendar year during which at any point a violation occurs, a fine of $500 for each employee who was neither enrolled in nor opted out of participation in the program. The bill also provides that an employer who collects employee contributions but fails to remit any portion of the contributions to the fund shall be subject to a penalty of $2,500 for a first offense, and $5,000 for the second and each subsequent offense.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that the bill will result in an indeterminate increase in State administrative expenditures for the Department of the Treasury, tied to start-up and initial implementation of the state-sponsored IRAs by the board, which is established under the bill.

The New Jersey Secure Choice Savings Board will incur ongoing costs to administer the savings program after start-up and initial implementation. It will also collect administrative fees from amounts on deposit; those fees are capped at 0.6 percent of the total balance of deposits and other revenue on hand, except that, during the first three years of the program, annual administrative fees may be set at not more than 0.75 percent of the fund's total balance. The extent to which administrative fee revenue may exceed or fall short of administrative costs cannot be predicted.

The OLS also notes that the bill will result in an indeterminate State revenue increase equal to the penalty payments by employers who do not comply with the provisions of the bill.

For purposes of illustration, the bill was modeled after the recently enacted Illinois Secure Choice Program (Illinois program), which requires employers with 25 or more employees to automatically enroll their employees into a state-sponsored program of Individual Retirement Accounts. As an overarching caveat to this estimate, it is important to note that while the OLS is describing the estimated start-up cost of the Illinois program, the OLS is not forecasting the actual start-up cost of the program in New Jersey, as provided under the bill.

A feasibility study of the Illinois program found that start-up costs would reflect two basic factors: (1) a one-time fixed cost of developing the infrastructure to run the program; and (2) cost to enroll each employer. The study estimated a one-time fixed cost of $1.0 million and an average enrollment cost of $200 per employer. The study also found that while Illinois had over 150,000 employers that did not offer a retirement plan, just over 14,000 of these had 25 or more employees at that time. Furthermore, the study assumed that 20 percent of these employers would decide to offer a private sector plan instead of enrolling its employees in the Illinois program. The end result was a roughly estimated 12,000 employers who would need to enroll in the program. The total start-up costs for the Illinois program were estimated to be equal to the one-time fixed cost of $1.0 million plus the product of the $200 cost per employer times the estimated 12,000 employers, totaling about $3.4 million.

Therefore, it is reasonable to conclude that under the bill, the magnitude of the impact to the State for purposes of start-up costs of creating a program similar to the Illinois program would depend on the same variables described above. However, the OLS does not have enough information to forecast the actual start-up costs under the bill.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).