

August 14, 2018

To the Honorable Members of
The Illinois House of Representatives,
100th General Assembly:

Today, I return House Bill 4923 with specific recommendations for change.

When the Secure Choice Savings program was implemented, there were valid concerns raised about the unintended consequences of mandating participation in the program. For example, there are legitimate issues raised that the program will result in fewer small retirement plans being offered by employers, the possibility that existing small plans may be terminated, and concerns about the viability under federal law of this program.

Rigorous economic analysis studying these effects has yet to satisfy concerns about unintended consequences. Furthermore, federal guidance on the relationship of state programs like this to federal ERISA law has changed since the underlying legislation was passed, and the Illinois Secure Choice program in particular has suffered from delays and poor implementation. While this legislation as passed makes some marginal beneficial changes to the reporting structure of Secure Choice to better monitor its investments and progress, a change that could actually provide some comfort about the uncertainty surrounding the program would be to make it optional for employers to participate in as a retirement option for their employees.

Therefore, pursuant to Section 9(e) of Article IV of the Illinois Constitution of 1970, I hereby return House Bill 4923, entitled "AN ACT concerning employment", with the following specific recommendations for change:

On page 1, by replacing line 5 with "is amended by changing Sections 45, 60, 65, and 80 as follows:"

On page 2, immediately after line 24, by inserting the following:

“(820 ILCS 80/60)

Sec. 60. Program implementation and enrollment. Except as otherwise provided in Section 93 of this Act, the Program shall be implemented, and enrollment of employees shall begin in 2018. The Board shall establish an implementation timeline under which employers ~~shall~~may enroll their employees into the Program. The timeline shall include the date by which an employer ~~must~~may begin enrollment of its employees into the Program and the date by which enrollment must be complete. The Board shall adopt the implementation timeline at a public meeting of the Board and shall publicize the implementation timeline. The Board shall provide advance notice to employers of their enrollment date and the amount of time to complete enrollment. The Board's implementation timeline shall ensure that all employees are required to be enrolled into the Program by December 31, 2020. The provisions of this Section shall be in force after the Board opens the Program for enrollment.

(a) Each employer ~~shall~~may establish a payroll deposit retirement savings arrangement to allow each employee to participate in the Program within the timeline set by the Board after the Program opens for enrollment.

(b) Employers ~~shall~~may automatically enroll in the Program each of their employees who has not opted out of participation in the Program using the form described in subsection (c) of Section 55 of this Act and ~~shall~~may provide payroll deduction retirement savings arrangements for such employees and deposit, on behalf of such employees, these funds into the Program. Small employers may, but are not required to, provide payroll deduction retirement savings arrangements for each employee who elects to participate in the Program. Small employers' use of automatic enrollment for employees is subject to final rules from the United States Department of Labor. Utilization of automatic enrollment by small employers may be allowed only if it does not create employer liability under the federal Employee Retirement Income Security Act.

(c) Enrollees shall have the ability to select a contribution level into the Fund. This level may be expressed as a percentage of wages or as a dollar amount up to the deductible amount for the enrollee's taxable year under Section 219(b)(1)(A) of the Internal Revenue Code. Enrollees may change their contribution level at any time, subject to rules promulgated by the Board. If an enrollee fails to select a contribution level using the form described in subsection (c) of Section 55 of this Act, then he or she shall contribute the default contribution rate of his or her wages to the Program, provided that such contributions shall not cause the enrollee's total contributions to IRAs for the year to exceed the deductible amount for the enrollee's taxable year under Section 219(b)(1)(A) of the Internal Revenue Code.

(d) Enrollees may select an investment option from the permitted investment options listed in Section 45 of this Act. Enrollees may change their investment option at any time, subject to rules promulgated by the Board. In the event that an enrollee fails to select an investment option, that enrollee shall be placed in the investment option selected by the Board as the default under subsection (c) of Section 45 of this Act. If the Board has not selected a default investment option under subsection (c) of Section 45 of this Act, then an enrollee who fails to select an investment option shall be placed in the life-cycle fund investment option.

(e) Following initial implementation of the Program pursuant to this Section, at least once every year, participating employers shall designate an open enrollment period during which employees who previously opted out of the Program may enroll in the Program.

(f) An employee who opts out of the Program who subsequently wants to participate through the participating employer's payroll deposit retirement savings arrangement may only enroll during the participating employer's designated open enrollment period or if permitted by the participating employer at an earlier time.

(g) Employers shall retain the option at all times to set up any type of employer-sponsored retirement plan, such as a defined benefit plan or a 401(k), Simplified Employee Pension (SEP) plan, or Savings Incentive Match Plan for Employees (SIMPLE) plan, or to offer an automatic enrollment payroll deduction IRA, ~~instead of having a payroll deposit retirement savings arrangement to allow employee participation in the Program.~~

(h) An employee may terminate his or her participation in the Program at any time in a manner prescribed by the Board.

(i) The Board shall establish and maintain an Internet website designed to assist employers in identifying private sector providers of retirement arrangements that can be set up by the employer rather than allowing employee participation in the Program under this Act; however, the Board shall only establish and maintain an Internet website under this subsection if there is sufficient interest in such an Internet website by private sector providers and if the private sector providers furnish the funding necessary to establish and maintain the Internet website. The Board must provide public notice of the availability of and the process for inclusion on the Internet website before it becomes publicly available. This Internet website must be available to the public before the Board opens the Program for enrollment, and the Internet website address must be included on any Internet website posting or other materials regarding the Program offered to the public by the Board.”

With these changes, House Bill 4923 will have my approval. I respectfully request your concurrence.

Sincerely,

Bruce Rauner
GOVERNOR