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By Paul Schott Stevens

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Millions of Americans save for retirement using employer-sponsored plans that offer tax advantages and excellent investment options. Even so, there may be more Californians who would like to save more but lack access to a retirement plan through their job.

Policymakers in Washington, DC, and in Sacramento have been working to meet their needs. Some ideas, such as bipartisan federal proposals to make it less costly for employers to provide retirement plans, offer a good start. Others ideas, like the "Secure Choice" retirement plan being considered by California legislators, are fraught with risks and costs—and, while well-intentioned, could do more harm than good.

Secure Choice would automatically enroll workers who lack access to employer-sponsored plans in a new program run by the state. Workers could opt out of the plan, but those who remain could find their investment options are severely limited, less competitive and more costly than many in private-sector accounts.

And if it doesn't work, the plan could leave California taxpayers on the hook for a bailout and costly legal challenges from investors. Although Senate Bill 1234 limits the state's liability, future legislators are likely to see an obligation to cover any shortfalls or excessive expenses.

If the plan reaches his desk, Gov. Jerry Brown should stop it before it's implemented.

Support for Secure Choice is based in part on a study that understates several potential risks. Even with automatic enrollment, more workers than expected may opt out of the plan. The analysis assumes that the "opt-out rate" will match that for workers in private-sector plans such as 401(k)s. But Secure

Choice workers will be younger, have lower earnings and be more likely to work part-time—all factors that would reduce participation.

Also, workers may contribute less than expected. Half of potential enrollees are expected to have annual earnings of $23,009 or less. For many, a 3 percent payroll deduction could mean less money for rent, food, medicine, and other needs. Financial hardships, job changes and allowing changes to financial services providers at any time could lead to high levels of turnover and withdrawals. That could keep average account sizes smaller and expenses higher.

The program will incur significant startup and ongoing administrative costs, many of which have been ignored or not fully recognized. The legislature is seeking to cap the administrative costs at 1 percent, but who is going to pay if the costs exceed 1 percent?

The state also failed to fully account for all costs and legal risks. The status of Secure Choice under the Employee Retirement Income Security Act of 1974, for instance, remains unclear. Even if the US Department of Labor provides a limited exemption, there's no guarantee that will pass muster if investors sue.

Moreover, Secure Choice appears to be subject to federal securities laws, which have long protected private-sector retirement savers. But they are costly, and it isn't clear whether the state plans to provide such protections to program participants.

California deserves credit for exploring ways to expand access to workplace retirement savings, but there are more targeted proposals at the national level that would more effectively achieve this goal.

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