HF 4270 (Becker-Finn); SF 4319 (Pappas) Minnesota Secure Choice Retirement Program: Modifying board of director requirements; authorizing the appointment of an interim executive director; making technical corrections

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Introduction

Affected Plan: Minnesota Secure Choice Retirement Program

Laws Amended: Minnesota Statutes, Section 187.08
Laws 2023, Chapter 46, Section 11 (uncodified session law)

Brief Description: The bill makes changes to the requirements for the board of directors, authorizes the board to appoint an interim director, and makes technical corrections.

Background

The Minnesota Secure Choice Retirement Program was established by legislation approved by the Commission and eventually enacted in 2023. The Program is intended to help employees who have no access to a 401(k) plan or other retirement plan through their employment save for retirement. In establishing the Program, Minnesota joined over a dozen other states, including Colorado, Oregon, Illinois, and California, offering a similar state-run retirement program. According to the American Association of Retired Persons (AARP), about 718,000 Minnesota employees in the private sector do not have access to a retirement plan through their employment.[1]

The Program will require all private sector employers in the state of Minnesota that employ 5 or more employees to deduct a percentage of pay from each of their employees' paychecks and transmit the deduction to the state for deposit in an individual retirement account in the name of the employee. The individual accounts will be invested by the State Board of Investment. Employees will be able to opt out of the Program or change their salary deferral amount. Employees can access their accounts to fund retirement or earlier, subject to a penalty unless an exception applies.

The Program is required to be opened in phases, over a two-year period, beginning after January 1, 2025.

[1] "New Retirement Savings Program to Help Minnesota Workers" AARP (October 1, 2023).

At a meeting in early January, the Executive Committee of the Commission appointed three members of the 7-member Secure Choice board of directors. At its meeting on February 12, the Commission appointed ex officio board member, Erin Leonard, the executive director of the Minnesota State Retirement System, to work with Commission staff to convene the first meeting of the Secure Choice board of directors.

At the first meeting of the board, it is anticipated that the board will be introduced to the program, elect a chair, appoint an individual to serve as a part-time interim executive director, and begin the process to hire a full-time executive director, most likely through the use of an executive search firm.

General Summary

Since the end of the 2023 session, Commission staff have identified several provisions in the new laws that need to be revised (1) to make filling one board seat easier in the future; (2) to give the board the authority it may need to get the Program up and running, including appointing an interim executive director; and (3) to eliminate the requirement that the Commission executive director serve in a dual-capacity as both the Commission executive director and the interim executive director of the Program. These are not strictly technical changes, but do not substantively change any of the provisions being amended.

Section- by- Section Summary

Section 1 amends section 187.08, subdivision 1, to expand the eligibility for the board seat currently designated for a small business owner. The bill will permit an individual who is a "small business executive" or a "nonprofit executive," not just a "small business owner," to qualify to fill this seat.

This seat is appointed by the Governor. The opening was posted last fall and received only two applicants in the final weeks from small business owners. There were other applicants for the seat who were executives of a small business or nonprofit and would have been qualified had the qualification requirement included small business or nonprofit executives.

The Governor's appointments' staff agreed that expanding the qualification requirement for this seat would likely provide more applicants to choose from while ensuring that this seat would be filled by an individual with the desired kind of expertise and experience.

Section 1 is effective the day following final enactment.

Section 2 amends section 187.08, subdivision 7, to allow the board to appoint an interim executive director and authorize the executive director or interim executive director to hire staff. An individual will be needed as quickly as possible, likely on a part-time basis, to implement the board's decisions, which are anticipated to include preparation of an RFP for an executive search firm and overseeing the search, interview, and selection process for a full-time executive director.

Section 2 is effective retroactively from January 1, 2024.

Section 3 amends section 187.08, subdivision 8, deletes “and employer,” which is a holdover from an earlier version of the bill, when it included a multiple employer plan option and the opportunity for employer contributions.

Section 3 is effective the day following final enactment.

Section 4 amends the session law included in the 2023 legislation that requires the executive director of the Commission to “serve as the interim executive director” of the Program until the board appoints an executive director. The bill addresses concerns that it is not tenable to have the full-time nonpartisan Commission executive director also serve as the interim executive director of a new executive branch agency. It’s possible there could also be conflicts of interest, where the Commission executive director is asked to prepare legislation that is adverse in some way to the Program. The new language directs the Commission executive director to assist the board in her capacity as Commission executive director until the board appoints an interim or full-time executive director.

Section 4 is effective retroactively from January 1, 2024.