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Getting Ready for Secure Choice

A recent analysis by The Pew Charitable Trusts shows that 30 million Americans who work full-time do not have access to any kind of employer-based retirement benefit, with 3.9 million in California. The study also showed that only 51 percent of California employees have access to a workplace retirement plan, below the national average of 58 percent, and only 44 percent participate in the workplace retirement plans. Meanwhile, 10 percent of California seniors live in poverty, and the number of seniors is projected to almost double by 2030.

To address this issue, Governor Jerry Brown signed the Secure Choice Retirement Savings Trust Act, championed by Senate President Pro Tem Kevin de León and state Treasurer John Chiang. The Act requires private-sector employers with five or more workers to enroll them in the Secure Choice program if they don't offer retirement benefits.

Even with the passage of the Act, there are still several key issues including how many participants with low or moderate incomes will want to dip into their accounts in a financial emergency. When should such withdrawals be permitted? Should there be penalties for taking funds out early?

For employers, Secure Choice needs to strike a balance between the benefits to their workers and the new obligations on companies. Employers will be responsible for enrolling employees and possibly be the point of contact on contributions, investments and distributions. California will also be looking for any revised or additional regulations from the Trump administration regarding state-sponsored retirement programs such as Secure Choice.

These issues show that passage of Secure Choice is only the first step. Making it a success will require the best ideas from all stakeholders and careful implementation, which is why on Thursday Pew and the California Budget & Policy Center convened a conference in Sacramento to discuss how the vision of Secure Choice can become a reality.

The conference included key note speaker California State Controller Betty Yee. In her address she noted that many Californians have an uncertain retirement and also stated that with changing leadership at the national level, this uncertainty is increased. Yee stated that California cannot have economic growth and strength without each Californian's personal finances becoming stable. Currently, a majority of employees ages 22 through 44 are on track

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to have insufficient funds to retire. Secure Choice targets this group with the goal to fill the gaps of insufficient retirement funds, stabilizing Californians and therefore California. This was a highly debated bill last year, and Yee personally thanked the California Chamber of Commerce for removing their opposition. Yee ended with stating: "The real work begins now."

The employer panel made it clear that there is still skepticism regarding Secure Choice, but the skepticism is constructive to those who are governing and implementing this new product. The concerns the business community stated included how the businesses will receive the right information regarding the program at the right time including the basics as to what they will need to do to enroll employees. There are also concerns regarding the more complex pieces of the program including when employees leave or transfer from other companies.

Ruth Holton-Hodson, senior policy advisor for the Health and Retirement Initiatives within the California Office of the Treasurer stated that implementing Secure Choice is going to be a complex operation and that the Treasurer wants to ensure that they do it right, through a careful and steady implementation program. This included a culturally competent education and outreach effort that will be key to their success with employers and employees.

Many more conferences and meetings on Secure Choice will convene over the next few years and we will continue to update you.

Marijuana Is Legal, Now What?

Voters in California, Maine, Massachusetts and Nevada on November 8th all decided that recreational pot use won't be a crime next year. In 28 states, including four that just voted to join, medicinal marijuana will be lawful. Cannabis is a \$6 billion-a-year business, projected to triple as the new states set up their infrastructures.

While legal now in California, there are still a few caveats, including the fact that it could get you fired. In Colorado, recreational marijuana has been legal since 2012, but it's still forbidden by many employers. The same will be true in California, as Proposition 64 states that employers remain free to test workers for marijuana use before hiring them, or at any point in their careers. And if workers test positive, the law says companies can choose to let them go – even if there's no indication they were actually high on the job.

In 2015, the Colorado Supreme Court ruled that Dish Network was within its rights when it fired telephone operator Brandon Coats, a quadriplegic who used medical marijuana in off-duty hours to ease leg spasms. The California Supreme Court made a similar ruling in 2008, when they ruled that a telecommunications company had a right to fire retired Air Force veteran Gary Ross over his medical marijuana use.

Along with not being able to smoke for work purposes, researchers are busy finding ways to detect the use of marijuana with driving. Six states have set limits for THC in drivers' blood, and nine other states have zero-tolerance laws, making the presence of THC in the driver's blood illegal. It is much more difficult to detect that a driver is under the influence of

marijuana than it is for alcohol and the Center for Medicinal Cannabis Research at the University of California, San Diego received a \$1.8 million grant from the state of California to gather data about dosages, time and what it takes to impair driving ability and then create a viable roadside sobriety test for cannabis. Until this fast and easy to use sobriety test is created, though, the primary assessment of impairment will continue to be the law enforcement officer's field sobriety tests.

While cannabis supporters celebrated the passage of Proposition 64 in California, even with these limitations, the celebrations were cut short with the emergence of the new Republican President-Elect and Republican led Congress and Senate at the national level. Currently, marijuana is still illegal by federal standards and is only allowed within the states because of a "blind eye" doctrine. The new Trump administration policy hasn't indicated a position on this topic yet, so there is a particular level of uncertainty. There's no telling whether the Republican administration will be persuaded to end the blind-eye doctrine, and his attorney general will have the authority to force businesses dealing in federally illicit products to close, so all eyes are on who will be the new attorney general.

Affordable Care Act in Turmoil

Following the election of Donald Trump to the presidency last week, the healthcare industry is largely uncertain what will happen to President Obama's landmark healthcare law, the Affordable Care Act. During his campaign, President Elect Trump promised repeatedly that one of his first acts in office would be to "repeal and replace" the ACA, a goal that the Republican Party has pursued vigorously for years. However now that he has been elected, it is uncertain whether President Elect Trump will follow through with this promise.

Earlier this week, President Elect Trump stated that he would be willing to keep certain parts of the ACA that he views as beneficial, such as the prohibition on insurers denying coverage because of preexisting conditions and the ability for children to stay on their parents' plans until they are 26. This represent a sharp change in course from simply gutting the law in its entirety, and has left many unsure what is to come in the future. This uncertainty has been most pronounced in California, which led the way in ACA signups with Covered California by committing fully to the ACA's rollout. The fact that it seems as though the law will be dismantled piece by piece while a replacement is devised means that the state has no idea what will be removed when, and what that means for those who signed up for the exchange.

California currently has 4.6 million people covered through the ACA, either through the Covered California Exchange or through the expanded coverage of Medi-Cal. If the federal government fully repeals the ACA and removes all of the funding for exchanges, California stands to lose \$20 billion in federal funding, an amount too great for the state to cover on its own. State officials have already promised that they would work to protect programs, but have already cautioned that such budget deficits could not be overcome. Anthony Wright of Health Access California stated that "California has a long and god tradition of going it alone, but there's a limit to what California can do without federal framework and funding."

California cut its uninsured rate in half under the ACA, reducing the rate to 11% statewide, and has largely been cited as the "gold standard" for what the law could accomplish.

However other states have struggled to keep insurers on their exchanges and faced soaring premium prices, leaving many unsatisfied with their coverage and how expensive it has become. However despite consumer dissatisfaction and the looming uncertainty of what will happen to the program, enrollment in ACA plans has been surging in the first two weeks of open enrollment. Over 1 million people have chosen plans through the ACA, with about 246,433 of those as new enrollments. This represents a higher rate of signups than in previous years, and serves as a signal of just how uncertain the future of the health law has become.

Democrats Gain Supermajority in California Assembly, Senate Still Undecided

Bucking national trends, California's state legislature moved into solidly more Democratic control following last week's election. Although the Democratic Party has had control of both houses of the state legislature for many years, this year Democrats were able to regain a supermajority in the Assembly that will allow them to pass bills without input from Republican members. The defeat of Republican Assembly Member Eric Linder by the Democrat Sabrina Cervantes cemented this supermajority, along with the losses of Assembly Member David Hadley and Assembly Member Young Kim.

It is still unknown whether or not Democrats will also gain a supermajority in the Senate, giving them total control of the State Legislature. Votes are still being counted in the extremely close race between Senator Ling Ling Chang and the Democrat Josh Newman, with Chang ahead by only a few thousand votes. It is uncertain when the votes will be fully counted, and it appears that it will come down to every single vote being tallied before a winner can be declared. If Chang is defeated, Democrats will have a two thirds majority in both houses of the Legislature as well as a Democratic governor, and will have the ability to pass all bills, including new tax measures, without opposition.