



employed individuals, through a retirement savings plan purchased through a web-based marketplace established and maintained by the New Mexico Work and Save Board or through a payroll-deduction Roth IRA program administered by a board-approved financial services provider. The board is administratively attached to the State Treasurer's Office (STO), who is required to provide administrative support for the board in carrying out its duties.

SB129 creates a work and save fund in the state treasury, to be administered by the board to carry out the provisions of the Work and Save Act. Earnings of the fund shall be credited to the fund, and any unexpended and unencumbered balances in the fund at the end of a fiscal year shall not revert to the general fund or any other fund.

SB129 amends the Work and Save Act to do the following:

- The board shall not directly or indirectly manage or maintain the funds and instead will contract with appropriate financial service providers to manage and maintain the funds and accounts of a program participant.
- The board is covered against claims arising under the Work and Save Act pursuant to the provisions of the Tort Claims Act
- The board is authorized to procure other insurance for liability and indemnification as needed.

In addition, SB129 amends the act to

- Remove provisions for a blanket surety bond;
- Clarify board members and employees of the board shall act as fiduciaries with respect to the design, implementation and oversight of the New Mexico retirement plan marketplace and the work and save IRA program;
- Ensure each board-approved financial service provider submit and provide annual reports to the board regarding the number of program participant accounts maintained by the financial service provider and the overall value of those accounts;
- Clarify covered employers are not responsible for the performance of a specific savings option selection made by a program participant and facilitated through the program;
- Adds a new section to clarify that the board, each board member and the state are not guaranteeing any rate of return or interest rate on contributions made by participants in the program;
- Give the board more flexibility in implementing the program by deleting the previous deadlines of July 2021 and January 2022;

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

## **FISCAL IMPLICATIONS**

Prior to SFC amendments, SB 129 created a new fund to support the functions of the Work and Save, which was funded by appropriations, donations, and revenues associated with the program and provided for continuing appropriations.

## **SIGNIFICANT ISSUES**

The original Work and Save Act passed in the 2020 Regular Session required the New Mexico

retirement plan marketplace be implemented no later than July 1, 2021 and the New Mexico work and save program implemented no later than January 1, 2022. SB 129 allows flexibility for program implementation.

The Work and Save Board reports that, because of unavoidable delays in beginning the board's work due primarily to the 2020 Covid-19 pandemic, the implementation timeline requirements imposed in HB44 cannot be met.

### **PERFORMANCE IMPLICATIONS**

Without the changes to the timeline implementation for the retirement plan marketplace and the payroll-deduction IRA program, the board cannot meet the deadlines of July 1, 2021, and January 1, 2022, respectively imposed under the current act.

### **TECHNICAL ISSUES**

Section 11, creating the work and save fund, appropriates money in the fund to the New Mexico Work and Save Board; however, the board is administratively attached to the State Treasurer. The appropriation should be to the State Treasurer who can then transfer the funds to the board.

Page 17, line 12 contains the words "when practicable" which the STBTC amendment struck in all other locations. It is not known if **not striking** the words "when practicable" here, was intentional or an oversight.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

If not enacted, the board may not meet the deadlines for implementation in the original 2020 enactment.

IT/al/sb/al/rl