



Colorado Employers Need To Add Secure Savings Program To Your 2021 To-Do List

Insights

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Colorado employers with five or more employees need to begin preparing to ensure they are in compliance with obligations brought about by a new state law that ensures nearly a million Colorado workers have access to retirement savings plans. Covered employers likely will need to either sponsor their own retirement plan, such as a 401(k), or facilitate employee participation in the recently enacted Colorado Secure Savings Program. While we anticipate that compliance will be phased in starting in 2021, the exact effective date has not yet been announced – but that doesn't mean you shouldn't be starting to prepare. What do Colorado employers need to know about this new item on your to-do list?

Program Basics

The Colorado legislature estimates that over 900,000 working Coloradans have no access to retirement savings plan through their employer. After being signed into law this summer, the program aims to close that gap by streamlining the retirement savings process.

It works like this: employees are automatically enrolled in the new program. A percentage of employee pay (the default is likely 5%) will be automatically deposited into an Individual Retirement Account (IRA). That account belongs to each employee and is portable from job to job. However, employees can opt out of the program or decrease the percentage of pay being withheld.

The program will be overseen by a "Program Board" consisting of the state treasurer and seven other members. The board already held two public meetings in October, but some key Program details – such as available investment options – still need to be ironed out.

The good news for businesses? Employer contributions are not required, and the administrative burdens and costs to employers will be minimal. Unlike a 401(k) plan, employers are not fiduciaries of the program. Moreover, employers also are not liable for employee investment decisions.

5 Next Steps For Colorado Employers To Consider

Below are some next steps to consider as we head towards 2021:

- Ensure your payroll system is ready for the program. If you work with a third-party payroll administrator, begin communicating with them immediately so they are aware of this soon-to-be-needed obligation.

- Consider whether implementing a retirement plan (rather than participating in the program) makes sense for your workforce.
- An “employer implementation package” (with model disclosures) and an “employee information packet” (with an explanation of how to opt out) will be designed and distributed by the program. Be on the lookout for those items and consider how best to inform employees about the program in new-hire paperwork and employee handbooks.
- Remember that non-compliance can be costly. Failure to comply with program requirements can result in a fine of up to \$100 per employee not to exceed \$5,000 total in a year. While enforcement is to be delayed for at least one year after the program’s effective date, you don’t want to be caught in a bad situation.
- Employers with fewer than five employees may decide to voluntarily participate in the program, so keep that in mind if you believe your workforce would appreciate this benefit.

Conclusion

We will monitor the developments related to this new law and provide updates as warranted, so you should ensure you are subscribed to Fisher Phillips’ alert system to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney or any attorney in our [Denver office](#).

This Legal Alert provides an overview of a new state law. It is not intended to be, and should not be construed as, legal advice for any particular situation.

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Ron M. Pierce
Of Counsel
303.218.3626
[Email](#)

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