



# California Expands State-Run Retirement Program

Insights

9.14.22

California Governor Gavin Newsom recently signed legislation that will expand CalSavers, the state's IRA-based retirement program, to cover virtually all California employers that do not sponsor their own qualified retirement plan. The new law, signed on August 26 and taking effect at the beginning of the new year, expands the definition of "eligible employer" to capture any employer in California with at least one non-owner employee. What do you need to know about SB 1126?

## The Details

Effective January 1, 2023, all employees who do not have access to a qualified employer-sponsored retirement plan will be eligible to participate in CalSavers. Additionally, all eligible employers with fewer than five employees must register with the program starting January 1, 2026. However, the California Employment Development Department (EDD) encourages employers to register sooner.

You can determine whether your business must register by averaging the number of employees you report to the EDD during the previous calendar year.

If your business sponsors any of the following types of retirement plans, you do not need to register:

- 401(a) – Qualified Plan (including profit-sharing plans and defined benefit plans)
- 401(k) plans (including multiple employer plans or pooled employer plans)
- 403(a) – Qualified Annuity Plan or 403(b) Tax-Sheltered Annuity Plan
- 408(k) – Simplified Employee Pension (SEP) plans
- 408(p) – Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) IRA Plan
- Payroll deduction IRAs with automatic enrollment

If your business sponsors a qualified retirement savings plan, you must still request an exemption from EDD.

State law already requires any business with at least five employees to participate in CalSavers if it does not offer a qualified retirement savings plan. The registration deadline for employers with five or more employees was June 30, 2022.

## **What Should You Do?**

Unregistered employers should complete the process as soon as possible to avoid potential penalties of up to \$750 per eligible employee. You can find more information, including registration instructions, by visiting the [CalSavers website](#).

We will continue to monitor developments and provide updates as events warrant. Make sure you are subscribed to [Fisher Phillips' Insight system](#) to get the most up-to-date information. If you have questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [Employee Benefits and Tax Practice Group](#).

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