

Illinois Governor Signs Bill Creating Mandatory Retirement Program for Illinois Businesses

Labor & Employment Law Update

By Kelly Haab-Tallitsch on January 5, 2015

The Illinois Secure Choice Savings Act (Secure Choice Act) was quietly signed into law by Illinois Governor Pat Quinn over the weekend. The controversial legislation will require most businesses in Illinois to adopt a retirement savings plan for their employees by June 1, 2017.

The Secure Choice Act creates a state-run retirement savings program in which eligible workers can contribute to a Roth IRA through automatic payroll deductions from their paychecks. Employers with 25 or more employees, who do not offer another type of retirement program, will be required to offer the state-run IRA arrangement or be subject to a fine of \$250 per employee per year. Employers that sponsor other types of private retirement plans, such as a 401(k) or pension plan, are not subject to the requirement or fines.

Once the Illinois Secure Choice Program is up and running – expected to be 2017 at the earliest – employees will be automatically enrolled in the program, with a default 3% payroll deduction per paycheck. Employees will have the option to change their deduction percent or to opt out of the program entirely. Employers and the state will not make contributions to employees' accounts.

The Secure Choice Act creates yet another set of administrative and recordkeeping requirements for small businesses. Once the program is implemented by the state, employers will be required to:

- Set up and maintain a payroll deposit savings arrangement that provides for payroll deduction of funds from employees paychecks and deposits those funds into the program;
- Provide employees with the state-provided information packet upon launch of the program and to new hires on an ongoing basis; and
- Enroll all employees who don't opt out of the program using the form provided by the state.

The Secure Choice Act provides for implementation of the program within 24 months, with the potential to delay further if the Illinois Secure Choice Board fails to obtain adequate funds to implement the program. The federal government could also delay the implementation if it determines that the IRA arrangements offered are not tax qualified or that the program is an ERISA employee benefit plan, and thus governed by federal, not state, law.

Employers affected by the Secure Choice Act should begin to examine other types of retirement plans while awaiting further information on implementation of the state program. Several options are available for small to mid-sized businesses, including IRAs, 401(k) Plans, and Simplified Pension Plans (SEP). IRS resources on retirement plans for small businesses can be found at <http://www.irs.gov/Retirement-Plans/Help-with-Choosing-a-Retirement-Plan>.

The passage of the Illinois Secure Choice Act makes Illinois the only state in the country with a state-run automatic enrollment payroll deduction retirement savings program for private sector employers.

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