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## New Connecticut Public Act Mandates Retirement Savings Programs

Beginning in 2018, private-sector employers in Connecticut that do not offer their employees a retirement savings plan (i.e., 401(k) or other payroll deduction retirement options) will be required to automatically enroll their employees in a newly-established State retirement savings program. Employees may elect to opt-out during the enrollment period. Those employers that are not subject to mandatory participation in the retirement program, may choose to participate subject to the rules and procedures established by a new quasi-public agency, the Connecticut Retirement Security Authority (the "CRSA"), created by the State Legislature to oversee the **retirement savings program**.

Critics of the program view it as needless government encroachment on the existing investment industry, and as creating yet one more governmental bureaucracy. Supporters view the new legislation as a way to provide a retirement savings opportunity to as many as 600,000 Connecticut residents. Supporters also believe the program will help reduce the number of retirees who have to rely on public assistance programs.

### THE CONNECTICUT RETIREMENT SECURITY EXCHANGE

The state-run retirement program applies to all "qualified employers" who do not offer retirement savings plans. A "qualified" employer is any employer in the private sector with at least five employees who

have earned a minimum of \$5,000 in wages in the previous calendar year. "Covered employees" are those employed by a qualified employer for a minimum of 120 days who are at least 19 years of age.

Qualified employers must automatically enroll each covered employee in the program no later than 60 days after the employer provides the employee with informational materials on the program. Employers are required to disseminate these materials to covered employees no later than January 1, 2018. Covered employees will make after-tax contributions between 3% and 6% of their taxable wages (up to maximum IRS limits for Roth IRA contributions) into individual retirement accounts (Roth IRAs) that will be established and maintained by the CRSA. Employers are prohibited from making contributions to the program.

While employee participation is not mandatory, the only mechanism for covered employees to opt-out of the program is by electing a contribution percentage of zero. With only this mechanism available, critics are skeptical about the practicality and ease with which employees will be able to opt-out of payroll reductions.

If qualified employers fail to enroll covered employees, or fail to timely remit employee contributions, they may face penalties. For failing to enroll covered employees in the program, an employer may be sued by an

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employee or the labor commissioner and be forced to enroll the covered employee, and pay costs and reasonable attorney's fees. If an employer remits contributions later than the 15th business day of the month following the month in which the covered employee's contributions were withheld from his or her paycheck, that employer may face imprisonment and fines depending on the amount of wages involved. For example, if unremitted wages are more than \$2,000, this will be classified as a Class D felony with possible imprisonment of up to five years, a fine of at least \$2,000, but not more than \$5,000, or both.

While the effective date of the program is expected to be in 2018, the CRSA is permitted to delay the effective date of the retirement program as necessary to minimize any disruption and burdens that may exist for qualified employers. Additional guidance is expected from the CRSA, including on an Internet website established and maintained by the CRSA for qualified employers and the general public.

*This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.*