

ISSUE ALERTS



SECURING A STRONG RETIREMENT ACT OF 2022 (SECURE 2.0) PASSED INTO LAW

January 6, 2023

By: Donald D. Berner and Douglas L. Hanisch

The Securing a Strong Retirement Act of 2022 (Secure 2.0) was passed into law as a parting holiday gift at the very end of 2022 as part of the omnibus spending bill. The provisions have a broad impact on a range of retirement and other benefit issues with the basic overall goal of increasing access and encouraging employee participation in retirement savings. The various changes will take effect between now and 2025. While there are a broad variety of changes created by Secure 2.0, here are some of the high points:

- Establishes mandatory automatic enrollment in new 401(k) plans for plan years beginning in 2025 and after. The general thrust of these provisions is to create a version of retirement savings autopilot by automatically enrolling employees, setting a contribution amount, and steering those contributions to default investment choices if the employee fails to make choices.
- Provides employers the ability to match employee student loan repayments by making matching contributions for those payments into the employee's 401(k) account. These changes take effect for plan years beginning Jan. 1, 2024, and after.
- Increases the allowable amounts for catch-up contributions for employees. These changes raise the current limits and create additional increased limits for employees between 60 and 63. There are also provisions that will require employees earning more than \$145,000 to make catch-up contributions as Roth contributions. At the same time, Secure 2.0 relaxes the current required minimum distributions for participants.
- Enhances the ability for part-time employees to participate in 401(k) plans by lowering the requirements established in Secure 1.0. The practical implications of this provision may be limited, as employers may have already allowed for increased participation for part-time employees.
- Increases the access to tax credits for small employers for establishing plans and making contributions for employees. These benefits apply to employers with fewer than 100 employees and provide the most impact for employers with 50 or fewer employees.

Secure 2.0 contains a broad range of provisions beyond those flagged in this alert. Employers and plan administrators will want to consult with counsel and other advisors to assess which of Secure 2.0's provisions may

FOULSTON

ATTORNEYS AT LAW

apply to them or to determine which of the various provisions they may desire to incorporate into their plans. At this juncture, there is time for employers and plan administrators to digest and evaluate the provisions of Secure 2.0 for future compliance and/or inclusion in their benefit plans.

FOR MORE INFORMATION

If you have questions or want more information regarding the Act, contact your legal counsel. If you do not have regular counsel for such matters, Foulston Siefkin LLP would welcome the opportunity to work with you to meet your specific business needs. For more information, contact **Doug Hanisch** at 316.291.9748 or dhanisch@foulston.com or **Don Berner** at 316.291.9738 or dberner@foulston.com. For more information on the firm, please visit our website at www.foulston.com.

Established in 1919, Foulston is the largest Kansas-based law firm. With offices in Wichita, Kansas City, and Topeka, Foulston provides a full range of legal services to clients in the areas of administrative & regulatory; antitrust & trade regulation; appellate law; banking & financial services; business & corporate; construction; creditors' rights & bankruptcy; e-commerce; education & public entity; elder law; emerging small business; employee benefits & ERISA; employment & labor; energy; environmental; ERISA litigation; estate planning & probate; family business enterprise; franchise & distribution; government investigations & white collar defense; governmental liability; government relations & public policy; healthcare; immigration; insurance regulatory; intellectual property; litigation & disputes; long-term care; mediation/dispute resolution; mergers & acquisitions; Native American law; oil, gas & minerals; OSHA; privacy & data security; private equity & venture capital; product liability; professional malpractice; real estate; securities & corporate finance; supply chain management; tax exempt organizations; taxation; trade secret & noncompete litigation; water rights; and wind & solar energy.

RESOURCES

Sign up to receive these issue alerts straight to your inbox [here](#).

This update has been prepared by Foulston Siefkin LLP for informational purposes only. It is not a legal opinion; it does not provide legal advice for any purpose; and it neither creates nor constitutes evidence of an attorney-client relationship.

PRACTICE AREAS

- Employee Benefits & ERISA
- Employment & Labor