

Summary of Employment-Related Provisions of the American Rescue Plan Act of 2021

On March 11, 2021, President Biden signed into law the \$1.9 Trillion American Rescue Plan Act (the "Act"). The applicable federal agencies are still in the process of updating their notices and guidance regarding the massive Act. In addition to providing funding for COVID relief and a wide variety of other items, the Act includes a number of components that directly affect employers, as summarized below:



Families First Coronavirus Response Act ("FFCRA") Leave

- As has been the case since January 1, 2021, FFCRA paid employee leave for COVID-19 related reasons (see below) is no longer mandatory - but may be provided at the discretion of the employer.
- The payroll tax credits provided to reimburse employers who choose to provide FFCRA paid leave were set to expire March 31, 2021. Under the Act, beginning April 1, 2021, an employer may receive the tax credit for providing up to 10 days (80 hours) of paid FFCRA leave to an eligible employee, even if the employee previously took FFCRA leave prior to April 1, 2021 (i.e., the employee's eligibility resets April 1).
- The tax credit for expanded FMLA leave under the FFCRA (including leave necessary to care for a child whose school or daycare is closed due to COVID-19) remains available for up to 12 weeks at 2/3 the employee's regular rate to a maximum of \$12,000 per eligible employee (increased from a maximum of 10 weeks/\$10,000 to 12 weeks/\$12,000).
- In addition to the qualifying purposes set forth in the FFCRA originally (i.e., employee is sick with COVID-19, is under quarantine orders, is caring for family member with COVID-19 - see our previous Critical Updates for the full explanation), FFCRA leave is available under the following additional circumstances: (1) time spent obtaining a COVID-19 vaccination; (2) time for an employee to recover from a condition related to the COVID-19 vaccination; or (3) time for an employee to seek or await results of a COVID-19 diagnosis or test if the employee has been exposed or the employer has required the test.
- There is also a new anti-discrimination rule which prohibits employers from discriminating in favor of highly compensated employees, full-time employees or on the basis of employment tenure.

COBRA Subsidies

- An individual who qualifies for COBRA coverage as a result of an involuntary termination from employment or reduction in hours is eligible for a COBRA subsidy. The reason for the employee's COBRA eligibility need not be COVID-19-related.
- The subsidy is equal to 100% of the COBRA premium for a covered group health plan.

- The subsidy begins April 1, 2021, and ends the earlier of September 30, 2021, or the end of the applicable COBRA coverage period. The subsidy is available for individuals who meet the eligibility requirements even if the COBRA-qualifying event occurred prior to April 1.
- The Act does not extend an employee's eligibility or maximum period of coverage for COBRA.
- The employer pays for the COBRA premiums and receives a payroll tax credit.

Unemployment Benefits



The Act extends the federal Pandemic Unemployment Assistance ("PUA") and Pandemic Emergency Unemployment Compensation ("PEUC") through September 4, 2021. In addition, the Pandemic Unemployment Compensation ("PUC" - i.e., the additional \$300 per week) continues through September 4 as well, for anyone who is receiving any amount of state unemployment benefits.

This memo is intended only as a summary and general overview. If you have any questions or would like legal advice regarding the above or any other employment issue, please contact [David Lawrence](#) or [Stacey DiDomenico](#).