

Beltway Buzz, July 17, 2020

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By James J. Plunkett

The Beltway Buzz is a weekly update summarizing labor and employment news from inside the Beltway and clarifying how what's happening in Washington, D.C. could impact your business.



Congress to Debate UI and Liability? For several weeks now, the *Buzz* has been discussing what might be included in the next federal legislative package to address the ongoing pandemic. Legislative discussions will begin to heat up next week when the Senate returns to Washington, D.C. Here are two items to watch:

- With the Federal Pandemic Unemployment Compensation program ending on July 31, 2020, Republicans may now be open to extending unemployment insurance premiums given the continued uncertainty surrounding the pandemic and reopening of the economy. It is unlikely Republicans would agree to extend the \$600 premium through January 2021, (as Democrats would do in the Health and Economic Recovery

Omnibus Emergency Solutions (HEROES) Act), but would legislators come together somewhere in the middle? Say, \$300 for 3 more months and another round of stimulus payments?

- As the *Buzz* has discussed previously, Republicans will be prioritizing legislative language that provides some form of liability protection from pandemic-related lawsuits for businesses, health care providers, schools, and more. But would Democrats agree to such language? In an effort to compromise on this issue, a group of moderate House Republicans this week suggested offering legislative language that would require the Occupational Safety and Health Administration (OSHA) to implement an emergency temporary standard in exchange for liability protections.

Immigration Update.

- *Student Visa Policy.* After significant public outcry over U.S. Immigration and Customs Enforcement's announcement that international students would not be permitted to reside in the United States while taking a fully online course load this fall, the agency walked back the policy this week. Melissa Manna has the details.
- *Immigration Ban.* A legal challenge and motion for a preliminary injunction has been filed against President Donald Trump's June 22, 2020, proclamation extending and expanding the ban on entry to the United States for certain visas. Meanwhile, the *Buzz* understands that the U.S. Department of State will be issuing guidance on how the proclamation's waivers and national interest exemptions will apply to workers.

DOL Seeks Paid Leave Feedback. Things seem to be moving on the paid family leave front at the U.S. Department of Labor (DOL). This week, the DOL's Wage and Hour Division and Women's Bureau both issued requests for information from the public on the issue.

- On July 17, 2020, the Wage and Hour Division published a request for information (RFI) "regarding the regulations implementing the Family and Medical Leave Act of 1993 (FMLA or the Act)." The RFI requests particular feedback on what it means to have a serious health condition, intermittent leave, and notice to the employer about the need for leave, among other issues. The RFI notes that it is not seeking stakeholder input on the FMLA protections provided for by the Families First Coronavirus Response Act. Comments are due by September 15, 2020.
- On July 16, 2020, the Women's Bureau published an RFI "about the need for, benefits of, and specific strategies to implement paid leave." Specifically, the RFI seeks information about aspects of state-mandated and employer-provided leave programs that work or do not work well, barriers to implementing or improving paid leave programs, costs and benefits of paid leave programs, and paid leave concerns for small employers, among other items. Comments are due by September 14, 2020.

Joint-Employer Funding Fight. Congress is still trying to pass important nonpandemic-related legislation, such as the various appropriations bills that fund the federal government every year. This week, the Labor, Health and Human Services, Education, and Related Agencies [appropriations bill](#) for fiscal year 2021—which

funds the DOL and the National Labor Relations Board (NLRB), among other agencies—cleared the Democrat-controlled appropriations committee in the U.S. House of Representatives. The bill now awaits a vote on the House floor. Included in the bill are “poison pill” provisions that would defund both the [DOL](#) and [NLRB’s](#) joint-employer rules. While it is unlikely that these policy riders will survive the legislative process, these provisions are indicative of the policy issues Democrats will prioritize should they prevail in the November 2020 elections.

OSHA Finalizes Beryllium Rule. On July 13, 2020, OSHA issued a [final rule](#) revising the beryllium standard for general industry. The final rule makes changes to the standard’s “Definitions,” “Methods of Compliance,” “Personal Protective Clothing and Equipment,” “Hygiene Areas and Practices,” “Housekeeping,” “Medical Surveillance,” “Hazard Communication” and “Recordkeeping” paragraphs. According to the final rule’s preamble, the changes “are designed to maintain or enhance worker protections overall by ensuring that the rule is well understood and compliance is more straightforward.” The compliance date for the new standard is September 14, 2020.

Go West, Young Man. This week in 1787, the Confederation Congress enacted the Northwest Ordinance, establishing the Northwest Territory (modern day Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio). The ordinance established the precedent by which the federal government would expand westward and set forth the process for the formation of new states. Fast forward to 1865 when this concept of Manifest Destiny was perhaps best captured by newspaper editor Horace Greeley, who is credited with [writing](#):

Washington is not a place to live in. The rents are high, the food is bad, the dust is disgusting and the morals are deplorable. Go West, young man, go West and grow up with the country.

There is some controversy about whether this phrase should be credited to Greeley, but the *Buzz* can verify that with the exception of the food, it is still an accurate description of Washington, D.C.

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