

Beltway Buzz, August 21, 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's Compromise Clues? There was lots of scuttlebutt in Washington, D.C., this week about a subsequent stimulus package, but nothing to show for it. Senate Republicans are reportedly poised to introduce a new scaled-back version of the Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act that they dropped in July, while the U.S. House of Representatives will convene this weekend to vote on a U.S. Postal Service relief bill. Could the Postal Service situation or the September 30 federal government-funding deadline be catalysts to a pandemic relief package? We'll have to wait and see.

Lost Wages Assistance Program Begins. While Congress hems and haws over the next stimulus package, President Donald Trump's memorandum establishing a [lost wages assistance](#) program is up and running and states are already applying for aid. According to the Federal Emergency Management Agency (FEMA), which administers the emergency funds to qualifying states, Arizona, Colorado, Idaho, Iowa, Louisiana, Maryland, Michigan, Missouri, Montana, New Mexico, Oklahoma, and Utah have been approved for assistance.

GAO Finds Wolf and Cuccinelli Were Unlawfully Appointed. On August 14, 2020, the U.S. Government Accountability Office (GAO) issued a [report](#) finding that U.S. Department of Homeland Security (DHS) Acting Secretary Chad F. Wolf, former acting secretary Kevin McAleenan, and Kenneth T. Cuccinelli (serving as the senior official performing the duties of deputy secretary) were appointed unlawfully under federal law. Though not legally binding, the report could provide the groundwork for

lawsuits challenging DHS and U.S. Citizenship and Immigration Services (USCIS) policies initiated since the spring of 2019, including USCIS's recent rule [increasing fees](#) for specific immigration and naturalization benefit requests, as well as a [memorandum](#) from Wolf limiting the scope of the Deferred Action for Childhood Arrivals (DACA) program after the [decision](#) by the Supreme Court of the United States holding that the Trump administration unlawfully terminated the program. The report has been referred to the DHS Office of Inspector General but has already been disputed by DHS.

Incidentally, this is not the first time that Cuccinelli's shoehorning into DHS has been called into question. As [previously reported](#) by the *Buzz* in March 2020, the U.S. District Court for the District of Columbia ruled that Cuccinelli's appointment as acting director of USCIS violated the Federal Vacancies Reform Act of 1998.

USCIS Furloughs Looming. Due to a budget shortfall, USCIS announced plans to furlough more than 13,000 employees beginning on August 30, 2020. USCIS is a fee-funded agency, and those fees have been way down, due to the agency's closure of field offices in the midst of the ongoing pandemic, as well as increased case-processing times. Congress has not responded to USCIS's [previous request](#) for a one-time infusion of \$1.2 billion to avoid the furloughs. However, Senator Patrick J. Leahy (D-VT) asked USCIS to delay the furloughs, claiming that the agency has [more than enough money](#) in its budget to postpone any such layoffs until at least the fall. The furloughs would obviously be devastating for those directly affected and would also be disastrous for other immigration stakeholders, such as individuals who are waiting to become U.S. citizens or who are seeking work authorization.

EEOC Conciliation Proposal Advances. After a public meeting held on August 18, 2020, the U.S. Equal Employment Opportunity Commission (EEOC) [voted to send](#) a notice of proposed rulemaking (NPRM) to the Office of Management and Budget (OMB) for review. After the OMB completes its review, the NPRM will be made available to the public for comment. According to the EEOC, in the NPRM, "the Commission outlines its responsibilities in the conciliation process to fulfill its Congressional mandate and to increase the effectiveness of its efforts to achieve cooperation and voluntary compliance." The EEOC said the proposal would "create accountability and transparency in the conciliation process." EEOC Commissioner Charlotte Burrows [voted against](#) advancing the proposal.

Biden His Time. With Joe Biden accepting the Democratic nomination for president this past week, the *Buzz* thinks it is noteworthy to look back on the length of his public service. For example, upon entering the U.S. Senate in 1973 at the age of 30, Biden served with six colleagues who were born in the 1800s:

- George Aiken (August 20, 1892 – November 19, 1984) was a Republican who served as governor of Vermont before representing the Green Mountain State in the Senate for 34 years.
- Senator Wallace Bennett (November 13, 1898 – December 19, 1993) was a Republican who represented Utah from 1951 to 1974. His son, Bob Bennett, held his seat in the Senate from 1993 to 2011.

- Senator Samuel Ervin Jr. (September 27, 1896 – April 23, 1985) was a Democrat who represented North Carolina in the Senate from 1954 to 1974.
- Senator John McClellan (February 25, 1896 – November 28, 1977) was a Democrat from Arkansas who served 34 years in the Senate.
- Senator John Sparkman (December 20, 1899 – November 16, 1985) was a Democrat from Alabama who served in the United States House of Representatives before a 42-year run in the Senate. He was Adlai Stevenson's running mate in the 1952 presidential election.

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