

TO: NAW Direct Members

FROM: NAW Government Relations Team

DATE: August 12, 2020

1. Latest on the HEALS Act (Health; Economic Assistance; Liability Protection; and Schools Act)

NAW continues to work with our trade association colleagues to urge Congress to agree on a new COVID package, particularly the much-needed expansion and improvement of the PPP, liability protection for employers, and elimination of the UI benefit that is discouraging workers from returning to the workplace.

Unfortunately, negotiations remain completely stalled on a new round of COVID relief/recovery measures – in fact, it appears that the opposing parties don't even agree on the core mission of whether new legislation should be focused on relief or recovery. Republicans prioritize measures to help businesses and the economy: extension/expansion of the PPP, elimination of the \$600 unemployment insurance bonus, and liability protection. Democrats remain focused on relief measures: aid to the states, individual stimulus payments and extension of the UI benefit.

There is well-reported dissent within the GOP, with conservative Republicans resisting another big spending bill. But there is now also public dissent on the Democratic side. Approximately 30 House Democrats – many facing tough re-elections – have urged the Democratic leadership to restart the negotiations and, if necessary, move forward with a scaled down bill. Over the weekend it was reported that a bipartisan group of rank-and-file members joined together to discuss how they can find consensus and push their respective leaders to move forward on a stimulus bill. Additionally, Speaker of the House Nancy Pelosi convened a two-hour conference call for House Democrats to discuss the breakdown in negotiations.

The House is not now in session and will not return to DC until after Labor Day unless an agreement is reached that they would return to vote on. The Senate is in session, but with no negotiations underway it is unlikely that they will remain here. So, unless there is a breakthrough in the negotiations, a new relief/recovery package will not be considered until September.

When Congress returns next month, they must pass regular spending bills before the September 30th end-of-fiscal-year to keep the government open. Some are speculating that Congress will eventually add a COVID-4 bill to the “continuing resolution” or “omnibus appropriations bill” next month, adding an additional \$1 to 3 trillion in COVID spending to the \$4-plus trillion in regular spending – resulting in an unimaginably enormous bill.

Of note: the delay in action on COVID-4 has left many in the PPP program in uncertain waters. The new legislation is expected to expand/reform the PPP, specifically addressing issues on PPP loan forgiveness and the forgiveness application process. With those reforms/clarifications tied up in stalled negotiations, many PPP borrowers and lenders are left in a holding pattern. For more on this issue, see the *Politico Pro* story [HERE](#).

2. The President’s Payroll Tax Deferral and Unemployment Insurance Benefit Executive Orders

The President issued four Executive Orders last week, two of them directly impacting employers: a deferral in the payment of payroll taxes and a reduced pandemic UI benefit. The President’s Executive Order allows employers to defer the payment of the employee portion of federal payroll taxes from September 1st to December 31st, with the presumption that employers will pass the savings on to their employees. This Executive Order simply defers the tax, it does not forgive it. Both the President and Treasury Secretary Mnuchin have indicated that the tax *might* be forgiven later, but employers could face a significant tax increase at the end of the year if they pass the tax savings on to their workers and the government does not make the deferral permanent.

Politico reports that Secretary Mnuchin has confirmed that the deferral would be optional for employers, perhaps in response to both employer concerns and a lack of significant support for the proposal on Capitol Hill. In addition to possibly facing a big tax increase at the end of the year, *Politico* reports that employers are also concerned that they could be on the hook for paying unpaid payroll taxes if they defer a workers’ levies and then that person later leaves the company. To read the full story in *Politico*, click [HERE](#).

On the UI benefit extension, according to a story in the *Wall Street Journal* today, the extra \$300 a week in unemployment benefits is likely to take a couple of weeks to reach workers and funding could be exhausted a month and a half later. Many employers –

including many NAW members – report that the bonus payment has made it difficult for them to hire or re-hire workers.

Because the funds for the extension of UI benefit are being re-programmed from the Federal Emergency Management Agency, an official from the Department of Labor states that the department should be able to begin delivering the payments after applying for funding with the Federal Emergency Management Agency and making technical changes to systems to distribute the money. Based on the current number of unemployment benefit recipients, the official said the \$44 billion in funds allocated for the enhanced benefits could be spent in five or six weeks, if all states participate. To read the full story in the *WSJ*, click [HERE](#).

3. Latest on Economic Recovery and Re-Opening the Workplace

As the Coronavirus Pandemic continues to impact the United States economy and businesses across the nation, it can be hard to decipher how new regulations and laws may impact your business. To help you manage these issues NAW is providing information about reports, webinars and seminars that you may find useful:

Webinar from ***Little Law Firm***:

Are We There Yet? Understanding the Return to Work Challenge Posed by COVID-19 – August 19th at 3:00pm EST

While some states and localities are easing their COVID-19-related restrictions, others are restoring "stay-at-home" orders and imposing strict new requirements for onsite work. For multi-state employers, keeping track of these constantly changing requirements is a full-time challenge. Join leaders of Littler's Return to Work Task Force Devjani Mishra and Melissa Peters, hosted by ComplianceHR CEO Lori Brown, as they discuss how to:

- Interpret specific re-opening and re-closing guidance from federal, state and local sources
- Make sense of travel advisories and other "off-campus" restrictions
- Develop compliant and sustainable workplace safety plans, and understand the employment liability landscape
- Monitor and apply changing leave of absence and accommodation requirements in an uncertain "back to school" season
- Reassess workforce strategies and structures for the balance of 2020 and beyond

- Utilize resources and technology including ComplianceHR SmartScreen™, for navigating the "return to work" process

To register, click [HERE](#).

From ***Little Law Firm***:

[White House Takes Executive Action on Unemployment Insurance, Payroll Taxes](#)

On August 8, 2020, the president signed several executive memoranda and an order addressing the continued economic havoc of the COVID-19 pandemic, two of which are of direct interest to employers. To read more, click [HERE](#).

Webinar from ***Little Law Firm***:

Returning to Work in a COVID-19 Litigation Landscape: What We Have Learned and How the Data Can Help Employers Mitigate Risk

Thursday, August 13, 2020 | 12:00pm – 12:30pm EST

The predicted wave of COVID-19 litigation has started to arrive, though not always in the form anticipated. With five months of data under our belt, we now have the ability to evaluate the real-life litigation risks associated with returning employees to the office, responding to employees' accommodation requests and stated safety concerns, and implementing strategies for minimizing risk. Monitoring litigation trends provides a powerful tool for employers as they manage through this pandemic. This session will look at the volume and nature of COVID-19 litigation activity around the country since mid-March and discuss mitigation measures employers may want to consider.

To register, click [HERE](#).

From ***McGuireWoods Law Firm***:

CARES Act Healthcare Provider Relief Fund Update: New Distribution and Extended Deadlines

The U.S. Department of Health and Human Services recently extended deadlines and announced new opportunities available from the CARES Act Provider Relief Fund. The portal for some of these opportunities opened August 10, and the application deadline is August 28. Read on for five key takeaways from HHS' recent announcements relevant to certain Medicare, Medicaid, CHIP and dental healthcare providers, as well as nursing homes and healthcare providers that changed ownership, and for information on how to access the new application and attestation portal. To read the full article, click [HERE](#).

From ***Little Law Firm***:

[Alabama Department of Labor Announces New Documentation Requirement and Enforcement Initiative](#)

The Alabama Department of Labor (AL DOL) recently announced two new changes affecting employers. To read more, click [HERE](#).

From ***TechRepublic***:

How phishing attacks have exploited the US Small Business Administration

COVID-19 has proved to be a field day for cybercriminals who have used the outbreak to create malware associated with the virus and its various repercussions. One popular tactic is to spoof organizations involved in relief efforts, whether medical or financial.

The U.S. Small Business Administration has been offering loans to businesses and other groups affected by the pandemic and lockdown, turning it into a target ripe for impersonation in phishing attacks. A [report published Monday](#) by security firm Malwarebytes tracks some of the different phishing campaigns that have sought to exploit the SBA. To read the full article, click [HERE](#).

Stateside Associates publishes a daily report about State and Local Government responses to the evolving situation.

To read their latest report, click [HERE](#).

We are also providing a link to a spreadsheet that includes state and local COVID-19 response information provided by ***MultiState Associates***.

To view their spreadsheet, click [HERE](#).

[Click here](#) for links to Critical Updates sent previously.

Many thanks—

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