

TO: NAW Direct Members

FR: NAW Government Relations Team

RE: NAW Critical Update Number 111 – December 15 at 11:45 AM

1. Latest on the Next Congressional Pandemic Relief Package

There are multiple moving parts to the effort to get a new COVID relief bill passed by Congress and signed by the President. This report is current as we write it, but the situation is very fluid and changing fast. We'll keep you updated as the process moves forward.

Yesterday, a bipartisan group of lawmakers released the legislative language for \$908 billion in COVID-19 relief funding, splitting it into two parts in recognition of deep differences over state aid and a liability shield for employers. The hope is that the final agreement will merge the two measures together and attach it to the government funding bill before the Friday night deadline.

The first bill is a \$748 billion relief plan that includes nearly \$300 billion for the Paycheck Protection Program (PPP), ensures the deductibility of business expenses paid with PPP funds, and allocates aid for vaccine distribution. The group's second bill only contains two pieces: \$160 billion in state aid sought by Democrats and the liability provisions that Republicans have said should be part of an aid package.

Click [HERE](#) to read NAW's press release supporting the relief legislation.

There is broad and increasing support for protecting PPP expense deductibility; our letter to the Hill now has almost 700 signatures on it (you can read it [HERE](#)). Despite that intense business support, and bi-partisan support for the proposal on the Hill, Treasury Secretary Mnuchin remains dug-in in opposition.

NAW and our association colleagues are aggressively working with our allies to persuade Congress and the Administration to act to enforce Congressional intent despite the Secretary's opposition. Last evening, we reached out to high-ranking White House officials to make sure they are aware of the escalating tension between the united business community and the Treasury Secretary to urge them to oppose presidential veto of the bill.

In the second bill, the liability shield would protect businesses for less time than the proposal backed by Senate Leader Mitch McConnell. Instead of four years of protection, the time frame would be just one year after enactment and plaintiffs would be allowed to file lawsuits in state courts. In exchange, the bill grants a key concession to Republicans by establishing a gross negligence standard for liability, which could allow employers who make good faith efforts to prevent the spread of Covid-19 from paying damages.

Even if congressional leaders can agree on the bipartisan group's plans, Senator Bernie Sanders may still hold up the process. Senator Sanders is insisting on another round of rebate checks similar to those distributed in March. Last week, Senator Sanders briefly threatened to hold up the one-week stopgap funding bill over the issue; he's repeatedly said he won't be as accommodating this week.

It's now up to Democratic and Republican leaders in Congress to find a way to get one or both parts of the plan through the House and Senate before Friday night. Republican Senator John Cornyn said a deal for pandemic relief could be laid out by the middle of the week so that it can be put together with legislation to keep the government funded.

As the *Washington Examiner* reported this morning, an added push for consideration of the "908" bill came today from Senator Dirk Durbin, the Democratic Whip, who chastised both the Speaker and Senate Leader McConnell for not getting this job done:

The Senate's No. 2 Democrat joined lawmakers in both parties in calling on the leadership of the House and Senate to put a compromise coronavirus aid package on the floor for a vote before the end of the year. 'There is no excuse for the speaker or the leader, you've got to give us a vote,' Senate Minority Whip Dick Durbin, an Illinois Democrat, said in an extraordinary push from one Democratic leader to another across the Capitol. Durbin called on Speaker Nancy Pelosi, a California Democrat, to drop her months long objections to taking up a narrow coronavirus aid package.

NAW will continue to update you on any timely changes throughout the week.

2. 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:

From Reed Smith Law Firm:

[Virginia governor issues updated COVID-19 restrictions amidst DOLI's proposed permanent workplace safety regulations](#)

On December 10, 2020, Virginia Governor Ralph Northam and State Health Commissioner Norman Oliver issued Executive Order 72 and Order of Public Health Emergency 9, a new 19-page Order imposing modified stay at home requirements, tightened business restrictions, and enhanced face covering requirements. Beyond tightening restrictions, the Order also outlines a wide-range of enhanced enforcement ... [Continue Reading](#)

Webinar from Littler Law Firm:

2020 Virtual Benefits Symposium: Addressing Issues in the New Normal

Thursday, December 17, 2020 | 10:00 am-11:00 am PST

Employment agreements often contain several benefits-related provisions which can be potential landmines for the unwary drafter. In this session, they will discuss how to successfully navigate through these potentially dangerous waters, providing drafting guidance and current best practices. The hands-on techniques that are discussed will be of value to all that have a role in negotiating with employees and drafting employee agreements.

The issues include:

- The manner in which equity is promised to new employees for both public and nonpublic employers
- The timing of severance payments
- Assuring valid considerations for a release of claims
- Complications in the drafting of noncompete provisions
- ACA concerns relating to healthcare subsidies
- Good reason provisions which are deemed to contain “bad” good reasons

To register, 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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