

Highlights for Week Ending January 21, 2017

STATE OF VERMONT

Amidst major changes throughout State of Vermont government from the top to the bottom, the Legislature has begun their work for this biennium. A goal of several veterans in the House and Senate is to clarify and update existing legislation, as opposed to the usual focus of creating new legislation, however, legalization of marijuana and an overhaul to the independent contractor rules will likely be back up for debate this session.

One item of note for human resources professionals, House Bill H.0101 was introduced last week, aimed to create a program for employers to adopt voluntarily a drug-free workplace program that would entitle them to a five percent discount on their workers' compensation premiums.

Legislative Committees – General Information

Work in the Legislature is accomplished via committee. Committee meetings are held to study issues, form policies and draft legislation. The weekly schedule for each committee is posted at:

<http://legislature.vermont.gov/>

House and Senate Standing Committees – There are 14 House and 11 Senate standing committees. Each member of the House serves on one committee, and they meet all day. Each member of the Senate serves on two committees, one that meets in the morning and one in the afternoon. Standing committee meetings are held Tuesday through Friday during the session.

Joint Committees and Committees of Conference – Both Senators and Representatives participate in joint committees. Committees of Conference specifically include three Representatives and three Senators, and meetings are held toward the end of the session. These special Committees of Conference are designed to allow members to work through differences and create a “final” bill that will be presented to both the Senate and the House for a vote.

Study Committees and Commissions – Study committees are enabled via legislation and are designed to look at particular issues when the Legislature is not in session. They often issue a special report and are then disbanded. Study commissions are also created via legislation, however, they often meet year round and are comprised of Legislators and non-Legislators.

Recently released reports of note for HR professionals:

Earned Sick Leave Report, Department of Labor, January 13, 2017:

<http://legislature.vermont.gov/assets/Legislative-Reports/EST-LegislativeRpt01132017.pdf>

Workforce Education and Training Fund Report, Department of Labor, January 4, 2017:

<http://legislature.vermont.gov/assets/Legislative-Reports/VDOL-Workforce-Education-and-Training-Fund-1-4-17.pdf>

PPACA Executive Order

President Trump signed an Executive Order hours after his inauguration directing federal agencies to minimize the burdens imposed by the Patient Protection and Affordable Care Act (“PPACA”). The Executive Order does not seek to grant the administration new powers, but does demonstrate that there will be a quick move to change key pieces of the PPACA. The Secretary of the Health and Human Services (current nominee, though not yet confirmed, is Rep. Tom Price, R-GA) will be tasked to “waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of [PPACA] that would impose a fiscal burden on any state or a cost, fee, tax, penalty or regulatory burden on individuals, families, healthcare providers, health insurers, patients, recipients of healthcare services, purchasers of health insurance, or makers of medical devices, products, or medications.” In addition, the Secretary has been asked to work to provide greater flexibility to states in the implementation of healthcare programs, and there is a push to develop a free market for the purchase of health insurance across state lines.

It is important to note that the Executive Order gives agencies these directives only “to the maximum extent permitted by law.” If there are regulations to be specifically revised they must follow the Administrative Procedure Act, which is designed to govern how administrative agencies of the federal government propose and establish regulations. This involves issuing draft rules, receiving public comments, and then rolling out final rules.

The Executive Order sends a message to his supporters, and simply sets up a mechanism to unwind the PPACA over time, but does not immediately relieve any obligations of employers under the PPACA.

Overtime Rules Update

Two different legal proceedings in Texas relative to the Department of Labor’s Overtime Rules continue to move forward on similar tracks.

An expedited appeal of the preliminary injunction that prevented the OT rules from going into effect on December 1, 2016, will soon be heard by the 5th Circuit Court of Appeals. In addition, the original case continues on in the U.S. District Court for Eastern Texas, with two motions before it: (1) Plaintiff’s motion to terminate the rules immediately with no trial, and (2) Texas AFL-CIO motion to continue the lawsuit should the Trump administration decide not to defend the new rules.

For more information about the SHRM Vermont State Council Legislative Employment Law and Legislative Advocacy Update, please contact Shelley Field at 802-772-2215 or shelley.field@casella.com.