

Quarterly HR

An HR View of Hot Legislation for 2011

The 112th session of Congress has begun, and among the leading issues for 2011 are: government spending, jobs creation, taxes, housing, military/veterans, immigration and health care.

In order to understand and appreciate newly-introduced congressional legislation that *MAY* become law in 2011, we must first look back at the hottest HR topic of 2010...health care reform.

On March 23, 2010, President Obama signed the comprehensive Patient Protection and Affordable Care Act (PPACA) into law. This health care reform (HCR) package focused on provisions to expand coverage, control health care costs, and improve the health care delivery system. Some key components of PPACA are:

- Individual mandate to purchase health insurance in 2014
- Restriction on applying lifetime limits to plans
- Preventive services provided with no cost-sharing (*non-grandfathered plans*)
- Elimination of pre-existing condition exclusions: effective 2010 for children to age 19; in 2014 for all
- Extension of adult dependent child coverage to age 26
- Reasonable Break Time for Nursing Mothers

Provisions of the health care reform will be implemented in phases – and many will not be applicable until one, two, or even six years down the road.

Health care reform may prove to be the #1 HR topic for 2011 – and also one of the most controversial. Due to the recent congressional elections, the political climate has changed. The new 112th Congress will be considering several new bills that would repeal PPACA in whole or in parts. Some of the bills to be considered are:

Repeal the Job Killing Health Care Law Act. This legislation would have repealed the Patient Protection and Affordable Care Act, effective as of its enactment and also repeal the health care provisions of the Health Care and Education Reconciliation Act (HCERA) of 2010. *Note: On February 2nd, the U.S. Senate defeated this legislation.*

Reclaiming Individual Liberty Act. This would amend provisions added by PPACA requiring individuals to purchase and maintain minimum essential health care coverage.

The REPEAL Act (Revoke Excessive Policies that Encroach on American Liberties)

On the federal level, some changes or delays have already been made to some of the HCR provisions.

- On February 2nd, by a bi-partisan vote of 81-17, the 1099 Requirement, which required businesses to file a 1099 on any transaction that exceeded \$600, was repealed to relieve this burden from small businesses.

INSIDE THIS ISSUE

HR View of Hot Legislation for 2011	1, 2
Executive Order Florida E-Verify / Dangers of Texting / IRS Free File	3
Extra Take Home Pay / 2010 HIRE Act Expires	4

- The agencies have opened a “request for comment” period before issuing final guidance on such items as: medical loss ratios; premium review process (to annually review unreasonable rate increased); nondiscrimination requirements of fully-insured plans; health insurance exchanges (in preparation for 2014).

Also in the news of health care reform are state challenges. The U.S. District Court for the Northern District of Florida ruled on January 31, 2011, that the entire health care reform law is unconstitutional. The attorneys general and/or governors of 26 states, two private citizens and the National Federation of Independent Business brought the case against the U.S. Departments of Health and Human Services, Treasury, and Labor, challenging the constitutionality of the PPACA. The U.S. Dept of Justice said the department will appeal the district court ruling to the 11th U.S. Circuit Court of Appeals.

...continued on page 2

Regardless of federal and state efforts to repeal the PPACA, it is still the law of the land today. Rest assured, CoAdvantage will continue to move forward with health care reform compliance and will keep you informed of key issues (current and/or changing) that may affect you and your employees.

What Else is Brewing in Congress for 2011?

The following small sampling of legislation, introduced for consideration to the 112th session of Congress, presents Immigration Reform and HR issues – important topics for every employer.

The Reform America's Broken Immigration System Act. Introduced 1/25/11, this proposed legislation expresses the sense of the Senate that Congress should:

- Strengthen our commitments to border security;
- Pass legislation, such as the DREAM Act, supporting national and economic security;
- Implement a rational legal immigration system to ensure that the best and brightest can come to the US and create jobs;
- Require all US workers to have tamper-proof identification to further prevent and penalize illegal hiring;
- Hold accountable people here illegally by requiring them to either earn legal status or be immediately deported; and
- Adopt practical and fair immigration reforms to help ensure that families are able to be together.

The Illegal Immigration Enforcement and Social Security Protection Act of 2011. Introduced 1/5/11, this bill requires inclusion of encrypted machine-readable electronic identification strips on Social Security cards. Requires the Commissioner of SS to (1) develop the strip in a manner that enables employers to access the Employment Eligibility Database (EED) established by this Act; and (2) transmit to Homeland Security (HHS) necessary info from an individual application for a SS card or number for inclusion in the EED.

- Requires the EED to include data on the citizenship status and work and residency eligibility of non citizens authorized to work in the US.
- Prohibits individual from commencing employment with a US employer absent a SS card that meets this Act and presentation of such card to the employer.
- Prohibits employers from hiring individual absent verification of identity and work authorization
- Authorizes penalties against employers who knowingly hire unauthorized workers or fail to comply with verification procedures; allows civil actions for those who fail to pay assessments or otherwise violate the Act; establishes criminal penalties.
- Requires integration of Border Patrol and FBI fingerprint databases.
- Prohibits this act from being construed to establish a national identification card.

The Securing the Homeland Through Agency Reporting Enhancement Act, introduced 1/18/11, would amend title II of the Social Security Act with respect to “no match: letters that inform employers of discrepancies in the records 2) requesting information that would assist in resolving the discrepancies 3) informing the employer that a copy of the notice is being forwarded to Homeland Security to assist in the enforcement of applicable immigration laws relating to employment of individuals not authorized to work in the U.S.

The Family Economic Success Act, introduced 1/25/2011, would ensure equity for women and address rising pressures on American families. It is the sense of the Senate that Congress should:

- Guarantee pay equity for women;
- Reward companies that promote flexible work environments for working parents with children, and workers who are care-givers;
- Guarantee paid family and medical leave and paid sick days; and
- Improve the quality and affordability of child care.

The Equal Employment for All Act, introduced 1/19/11, would amend the Fair Credit Reporting Act (FCRA) to prohibit the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions.

...continued on page 4

New Executive Order Requires Florida Agencies and State Contractors to Comply with E-Verify

On January 4, 2011, Florida Governor Rick Scott signed an Executive Order (EO 11-02) requiring all agencies under the direction of the Governor to use the federal E-Verify system to verify the employment eligibility of their current and prospective employees. **This order became effective immediately!** EO 11-02 imposes similar E-Verify requirements on state contractors and encourages agencies not under the direction of the Governor to use the E-Verify system as well. A copy of the order is available at: http://www.flgov.com/wp-content/uploads/2011/01/scott.eo_two.pdf.

The federal E-Verify system is an Internet-based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly-hired employees. While the E-Verify system is mandatory for qualified federal contractors, it was voluntary for state agencies in Florida until the Governor signed EO 11-02. Following is a link to the DHS's E-Verify home page where you can learn more about E-Verify, sign up for a web demo, and register your account: http://www.dhs.gov/files/programs/gc_1185221678150.shtm#3

IMPORTANT: If this Florida Executive Order applies to you, please understand that you must immediately register with E-Verify and execute a "Memorandum of Understanding" with the Department of Homeland Security. If your company falls under a federal, state agency or contractor mandate, CoAdvantage, upon agreement, will process new hires in E-Verify on your behalf. Please contact our Human Resources Team if you have any questions or for assistance with enrolling in this program.

Dangers of Texting While Driving

According to the American Automobile Association (AAA), for every two seconds that a driver's eyes stray away from the road, he/she is twice as likely to have an accident. The National Highway Traffic Safety Administration (NHTSA) also claims that driver inattention is the leading contributing factor in most crashes or near-miss accidents.

Inattention on the Road - Of all crashes, 80 percent (and 65 percent of near-crashes) involve driver inattention occurring within a three-second window of the incident. The moral of the story: When motorists change radio stations, try to read maps, navigation systems or talk on cell phones, they are putting themselves at risk

How Texting is Unique – The latest danger to hit our roadways is texting while driving. AAA claims that texting requires motorist's full attention, which seriously inhibits attention to the road.

Many states have laws outlawing the use of cell phones and texting while driving. ***If you must make a phone call or text, pull safely off the road and then do so. No message is worth risking someone's life!***

Have You Filed Your Individual Tax Return Yet?

If not, then you need to check out the IRS's new tax filing tool - - ***IRS Free File!*** Join the 30 million Americans who already have saved money by using IRS Free File, the free way to electronically prepare and e-file your federal tax return. The IRS Free File program is proud to work with individuals to help spread the word about IRS Free File.

Check out more by visiting their webpage at: <http://www.freefile.irs.gov/spread-the-word.html>

CoAdvantage (Standard) Employee Handbook 2011

The CoAdvantage Employee Handbook has been reviewed and updated as of February 2011. Clients may download a copy of the 2011 revised version by logging on to the CoAdvantage website at www.coadvantage.com

Extra Take-Home Pay Available to Employees in 2011!

Effective January 1, and for all payrolls in 2011, employees will see a 2% reduction in their FICA taxes. The Social Security (OASDI) portion of the tax was reduced from 6.2% to 4.2% as part of the Tax Relief Act of 2010, signed into law by President Obama in December. This tax reduction is aimed at providing employees with an increase in their take-home pay, saving employees up to \$2,136 for the year if they earn up to the wage limit of \$106,800.

The tax reduction does not change the OASDI rate for employers, who will continue to pay the 6.2% payroll tax rate. The Medicare portion of FICA remains unchanged at 1.45% for both employees and employers.

The extra savings is automatically being calculated and included through payroll processing by CoAdvantage.

2010 HIRE Act Employer-FICA Savings Expires

The HIRE Act “employer” FICA savings program, introduced in 2010 for eligible and newly hired employees, has expired as of December 31, 2010.

The secondary portion of the credit, based on employee retention, is still available and would be applicable to your company’s annual income tax return. Additional details regarding the extended credit are available at: <http://www.irs.gov/businesses/small/article/0,,id=220747,00.html>

If you have provided CoAdvantage with the W-11 forms for your eligible 2010 new hires, your service team will be able to provide you a report which may assist you with this process. *It is recommended you consult with your business tax specialist for additional expert advice regarding this program.*

Hot HR Legislation continued from page 2

Living American Wage Act of 2011, introduced 1/12/2011, regarding minimum wage increases would amend the Fair Labor Standards Act (FLSA) to provide for the calculation of the minimum wage based on the Federal poverty threshold for a family of 2, as determined by the Census Bureau.

- The federal minimum wage should, as a minimum, be adjusted every 4 years beginning June 1, 2011, so that a person working for such a wage may earn an annual income that is not less than 15% higher than the Federal poverty threshold for a family of 2, as determined by the Census Bureau;
- The minimum wage should be set at a level high enough to allow 2-full time minimum wage workers to earn an income above the national housing wage; and
- Congress, any of the several States, the DC any territory or possession of the US, any Indian tribe, or any local or municipal government of a State may establish a higher minimum wage requirement.

Veterans Day Off Act, introduced 1/19/11, would require employers to provide veterans with time off on Veterans Day.

Again, the preceding are not current laws; nor do we know the probability of the passing of these bills into law; however, should any of them pass, CoAdvantage is committed to keeping our clients informed; and will assist with any compliance issues that may arise.

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