

Congress Focuses on Health Care; Done with Pensions for Now

Welcome to *legislate*, a weekly roundup of events on Capitol Hill that affect employee benefits and human resources. *Legislate* also will identify important legislative trends and provide tutelage on how Congress works. Finally, be on the lookout for special issues of *legislate* on hot topics such as the health and retirement platforms of the 2012 presidential candidates.

Summing it up

Congress returned from its Fourth of July recess, and the House of Representatives (House) held a hearing on the Supreme Court's decision to uphold the constitutionality of the health care reform law. Following the hearing, the House voted to repeal the law. Although health care reform remains the 'hot topic du jour,' it appears that after pension funding stabilization was attached to the highway bill two weeks ago, pension fatigue has settled in on the Hill and further pension legislation is unlikely anytime soon.

The week in review

Health Care

On Tuesday, July 10, the Committee on Ways and Means held a hearing on the Supreme Court's decision to uphold the constitutionality of the individual mandate in the health care reform law. The focus of the hearing was on the Supreme Court's ruling that the individual mandate penalty is a tax and Congress' broad power to levy taxes beyond its historic scope of raising revenue. Throughout the hearing, the Democrats were quick to point out the similarities between the health care reform law and the Massachusetts state health care law that Governor Mitt Romney signed into law. The Republicans focused mainly on the individual mandate's penalty being characterized as a tax.

Also on July 10, the full House Oversight and Government Reform Committee (Oversight Committee) held a hearing titled "Examining the Impact of Obamacare on Job Creators and the Economy." The theme emerging from most of the witnesses was that the employer mandate would discourage employers from hiring full-time employees and increase employer costs, leading to economic uncertainty. However, one witness – an employer from Massachusetts – said that the Massachusetts state health care law has had a positive impact on his business, including strong job creation and lower health care premium increases.

On Wednesday, July 11 – after hours of debate – the House voted on the [Repeal of Obamacare Act](#). Not surprisingly, the bill passed, 244 to 185, with all Republicans and five Democrats voting to repeal the law. The House

has passed more than 30 such bills repealing all or part of the law or defunding certain provisions. House Republicans have acknowledged that passage by the Democratic-controlled Senate is unlikely.

In the months leading to the elections, a number of smaller attacks on the health care law will occur. For example, Representative David Schweikert (R-AZ) introduced the "[Total Repeal of the Unfair Taxes on Healthcare Act of 2012](#)" (TRUTH Act of 2012). The TRUTH Act would repeal all of the tax provisions in the law, such as the individual and employer mandates, the taxes on insurers and medical devices, and the fees on branded prescription drugs. However, it is unlikely any major health care legislation will move through either the House or the Senate in the months before the elections.

Pension and Retirement

On July 6, 2012, President Barack Obama signed the [Moving Ahead for Progress in the 21st Century Act](#) (MAP-21). MAP-21 provides for increases in PBGC premiums and contains provisions that would stabilize the interest rate used for pension funding and benefit restriction purposes. MAP-21 also introduces revisions to the PBGC's governance, including the appointment of a representative for plan sponsors. Getting the pension provisions into MAP-21 was no easy feat – some House members argued that previous legislation addressed the problems the provisions aim to fix, while others viewed the provisions as a possible corporate bailout.

For the next several years, the interest rate provisions will provide significant funding stabilization for many plan sponsors. Unfortunately, the utility of these provisions in the not-so-distant future will be limited, but both congressional staff and members appear to have no appetite to revisit the subject. Depending on the state of pensions in two to three years, it is possible that this subject will be raised again. For now, the good news is that the pension community can focus on obtaining guidance about the segment rates for the past 25 years and how those rates affect certain other pension rules.

The week to come

Health Care

The House Oversight Committee scheduled a hearing for July 19 titled "Continuing Oversight of Regulatory Impediments to Job Creation: Job Creators Still Buried by Red Tape." Although the witnesses are not yet listed, it is possible the health care reform law could be a part of the discussion. On the Senate side, the Special Committee on Aging scheduled a hearing to "Examine Medicare and Medicaid Coordination for Dual-Eligibles." In part because at least five states indicated that they will not take the federal government's funding to expand Medicaid, it is possible that the health care reform law's expanded Medicaid provision also could be discussed during this hearing.

Sundry Items

Both the Obama Administration and Congress were vocal last week about how to deal with the Bush-era tax cuts. Although no formal hearings or votes are scheduled for next week, more internal discussions and external posturing are a certainty.

Did you know?

Most people are familiar with the term “filibuster,” the given to the process of delaying debate or blocking legislation. According to the [Senate Historical Office](#), filibuster comes from a Dutch word meaning “pirates,” and it became popular in the 1850s when it was first used in the Senate to prevent action on a bill.

Next week: how to break a filibuster.

This legislate is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.