

Exploring Women's Retirement Security; Labor and Employment Legislation Front and Center; Temporary Bush-Era Tax Cut Legislation Passes in the Senate

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

On the retirement scene, last week the Senate Committee on Aging held a hearing examining women's retirement security, and legislation was introduced that would redefine disability for purposes of payment amounts in terminated single employer plans. In the labor and employment area, both the House of Representatives (House) and Senate were active. The House held a hearing examining and questioning some of the National Labor Relations Board's recent activities. In the Senate, legislation was introduced that would affect the Worker Adjustment and Retraining Notification (WARN) Act notice requirements for offshored work. Democrats in both chambers introduced legislation to increase the federal minimum wage. On the income taxation front, the Senate narrowly passed the Middle Class Tax Cut Act, which would, among other things, temporarily extend the Bush-era tax cuts for one year for individuals earning less than \$200,000 annually and families earning less than \$250,000 annually. Republicans in the House introduced legislation in anticipation of the future tax debate. Following much debate, the House passed the Regulatory Freeze for Jobs Act of 2012, but Senate action is doubtful.

As the August recess approaches, Congress is gearing down. It is likely that the debate over the tax extenders and general tax-and-spend issues will continue, but nothing should be expected until Congress returns from recess.

The week in review

Retirement

The Special Committee on Aging held a hearing about challenges women face in retirement. The committee examined a report from the GAO containing statistics on how elderly women face greater levels of poverty during retirement than men due to lower lifetime earnings, time off caring for family members, and greater longevity than men. Speakers discussed various options for enhancing women's retirement security. They focused on access to and participation in employer-sponsored plans, retirement income relative to men's, the impact of later-in-life events

on retirement security, and suggestions to increase Social Security benefits for those at lower income levels and at higher ages. Testimony can be found [here](#).

Senator Al Franken (D-MN) introduced the [Disability Pension Fairness Act](#) (S. 3447), which would amend the definition of disability under the Pension Benefit Guaranty Corporation's maximum-guaranteed-benefit rules to waive early retirement actuarial adjustments not only for disabilities that occur before the plan's termination date but also for disabilities that occur on or after the plan's termination date.

Labor and Employment

On July 25, 2012, the House Education and the Workforce Committee's Subcommittee on Health, Employment, Labor, and Pensions held a hearing, "Examining Proposals to Strengthen the National Labor Relations Act." According to Chairman Phil Roe (R-TN), the purpose of the hearing was to "review...a number of decisions by the board, examine their impact on the workforce and discuss legislative solutions offered by members of the committee." Bills discussed during the hearing included the [Rewarding Achievement and Incentivizing Successful Employees \(RAISE\) Act](#) (H.R. 4385), the [Secret Ballot Protection Act](#) (H.R. 972), and the [Tribal Sovereignty Act](#) (H.R. 2335). The RAISE Act would allow employers to reward individual employees covered by a collective bargaining agreement for their job performance without violating the National Labor Relations Act (NLRA). The Secret Ballot Protection Act would guarantee employees the right to secret ballot union representation elections. The Tribal Sovereignty Act would except from NLRA coverage any enterprise or institution owned and operated by Native Americans on "Indian lands." Notwithstanding Chairman Roe's urging, it is unlikely that the Senate will act on any of these.

Senator Claire McCaskill (D-MO) introduced the [Offshoring Notification Act](#) (S. 3425), which would amend the WARN Act to require an employer to include information in a WARN notice as to whether goods or services produced or provided by affected employees will continue to be produced or provided by contractors or employees outside the U.S. Given the election debate on offshoring, this appears to be aimed at fueling the political debate rather than at producing a change in the law.

Senator Bernie Sanders (I-VT) introduced the [Worker Ownership, Readiness, and Knowledge \(WORK\) Act](#) (S. 3421). The WORK Act would require the Secretary of Labor to establish the Employee Ownership and Participation Initiative to "promote employee ownership and employee participation in business decision making." The bill would: support existing programs on employee ownership and facilitate new programs within states through federal grants; provide federal funds for information-gathering projects; and provide education, outreach, and technical assistance to employees and employers about the benefits of employee ownership.

Representative George Miller (D-CA) introduced the [Fair Minimum Wage Act of 2012](#) (H.R. 6211), which would increase the federal minimum wage by 85 cents for the next three years (to \$9.80), and then adjust for inflation thereafter. Senator Tom Harkin (D-IA) introduced companion legislation (the Fair Minimum Wage Act of 2012 (S.3453)), the text of which should be available this week. Although both chambers introduced minimum wage legislation, it is doubtful that the Republicans will support any increase in the minimum wage.

Representative Hansen Clarke (D-MI) introduced the [Ban the Box Act](#) (H.R. 6220), which would prohibit an employer from inquiring whether an applicant for employment has been convicted of a criminal offense, except after a

conditional offer of employment is made or where offering employment may involve an unreasonable risk to the safety of specific individuals or to the general public.

Sundry Items

The Senate narrowly (51-48) passed the [Middle Class Tax Cut Act](#) (S. 3412), which would, among other things, temporarily extend the Bush-era tax cuts for one year for individuals earning less than \$200,000 annually and families earning less than \$250,000 annually. Many commentators view this as a purely symbolic act and expect many more bills to be introduced on this matter. Before the vote, Senators Orrin Hatch (R-UT) and Mike Lee (R-UT) both introduced legislation that would extend the Bush-era tax cuts. Senator Hatch introduced the [Tax Hike Prevention Act of 2012](#) (S. 3417), which would, among other things, extend for one year all of the Bush-era tax cuts of 2001 and 2003. In addition, the bill provides instructions for tax reform to the Senate Committee on Finance. Senator Lee's bill, the [Permanent Tax Relief Act](#) (S. 3420), would, among other things, permanently extend all of the Bush 2001 and 2003 tax cuts.

Preparing for the upcoming tax debates, Congressman David Dreier (R-CA) introduced the [Pathway to Job Creation through a Simpler, Fairer Tax Code Act of 2012](#) (H.R. 6169), which mandates expedited consideration of a bill that provides for comprehensive tax reform. It is unlikely that this could become part of the policy debate as there are numerous hearings on tax reform, and it appears that neither party is eager to tackle this thorny issue.

By a vote of 245-172, the House passed the [Regulatory Freeze for Jobs Act of 2012](#) (H.R. 4078), which was discussed in last week's [legislate](#). No similar legislation has been introduced in the Senate, and it is unlikely that any will be.

The week to come

Sundry Items

On August 1, 2012 the Senate Finance Committee will hold a hearing titled "Tax Reform: Examining the Taxation of Business Entities." A list of witnesses can be found [here](#). Debate over extending the Bush-era tax cuts and other income tax issues is expected to continue.

Did you know?

According to the [Senate Virtual Reference](#), unanimous consent is when a senator requests on the floor to set aside a specified rule of procedure to expedite proceedings. If no senator objects, the action is permitted. However, if even one senator objects, the request is denied.

Next week: What is the Candy Desk?

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.