

Legislate[®]

Key Legislative Developments Affecting Your Human Resources

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PBGC Premium Bill Introduced; Equal Pay Day Shines Spotlight on Wages; Hearing Focuses on Healthcare

Last week, the House introduced critical legislation to stop Congress from increasing PBGC premiums to offset increased government spending. Meanwhile, congressmen from both sides of the aisle leveraged Equal Pay Day — April 12 — to highlight certain equal pay bills. And a House hearing focused on healthcare.

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PBGC Premiums

The Pension and Budget Integrity Act of 2016 ([H.R. 4955](#)), introduced last week by Rep. Jim Renacci (R-OH) with bipartisan sponsorship, would prohibit Congress from increasing PBGC premiums to offset general government (non-pension) program spending. Congress has done this many times, most recently under the [Bipartisan Budget Act of 2015](#). This is so, even though PBGC premiums can be used only to pay pension benefits and PBGC expenses, because current law permits the premiums to be included in the federal government budget. (For details on the most recent PBGC premium hikes, see our [November 2, 2015 FYI Alert](#)).

Comment. If this legislation is enacted, it would not mean the end of PBGC premium hikes. Rather, any future increases would, at least in theory, shore up the pension system. Essentially, this legislation, which would apply to both single employer and multiemployer pension plans, would stop the “budget gimmick” of increasing premiums for reasons unrelated to pension plans.

President's FY 2017 Budget

PBGC premium increases could be viewed as jeopardizing the continued health of the pension system. Nevertheless, President Obama's FY 2017 budget proposal includes \$15 billion additional revenue from the multiemployer program through variable rate premiums and exit premiums. (For additional information on the president's budget proposals, see our [February 15 Legislate](#).)

Gender-Based Pay Differences

Last week, on Equal Pay Day, legislators reminded us of pending bills that are intended to update and expand certain protections created by the Equal Pay Act of 1963 and, in some cases, enjoy bipartisan support. Indeed, as stated by Rep. Deb Fischer (R-NB), “Equal pay for equal work is a shared American value.”

In general, these bills seek to amend the Fair Labor Standards Act to strengthen equal pay requirements and ensure that wage differentials are not based on sex. They also would revise remedies for gender-based pay discrimination and enhance enforcement of those requirements by protecting workers from retaliation should they inquire, discuss or disclose their wages or wage practices.



Although these bills have yet to move forward in the current Congress, three key ones are identified below:

- Paycheck Fairness Act ([S. 862](#) and [H.R. 1619](#))
 - Introduced by Sen. Barbara Mikulski (D-MD) and Rep. Rosa DeLauro (D-CT)
 - Sen. Mikulski’s [press release](#) and Rep. DeLauro’s [press release](#) provide additional information
- The Workplace Advancement Act ([S. 2200](#))
 - Introduced by Sen. Deb Fischer (R-NB)
 - Sen. Fischer’s [press release](#) provides additional information
- Gender Advancement Pay Act ([S. 2070](#))
 - Introduced by Sen. Kelly Ayotte (R-NH)
 - Sen. Ayotte’s [press release](#) provides additional information

Reforming the Healthcare Tax System

Last week, the House Ways and Means Committee, chaired by Rep. Kevin Brady (R-TX), held a full committee [hearing](#) to “examine how the tax code affects our health care system.” Rep. Brady and Ranking Member Sander Levin (D-MI) delivered opening statements before the witnesses testified.

During his [opening statement](#), Rep. Brady made clear that dismantling the employer-sponsored healthcare system is not the goal. Indeed, he noted “the employer-sponsored health insurance market is a vital one” and that a purpose of the hearing was to explore ways to “preserve and modernize” the exclusion for employer-sponsored healthcare “while also expanding tax benefits to Americans who seek additional health care choices.” Notwithstanding the foregoing, Rep. Brady promoted the view that the current healthcare tax system causes “job lock” and “is a contributing factor in our country’s stagnant wage growth” and, as such, the tax system should be changed so that pretax healthcare coverage is tied to the individual rather than the job.

Rep. Levin took a different approach in his [opening statement](#). Focusing on the need to build on the successes of the Affordable Care Act (ACA), he noted that “Republicans continue to try to cook up ways ... to repeal or undermine the

law” without putting forward a “viable, comprehensive alternative with which to replace the ACA.” He further noted that, in his view, “the Republican proposal to eliminate or limit the tax exclusion ... would disrupt the employer-based health insurance [system] ... and likely result in many employers no longer offering health coverage to employees.”

Comment. Last week’s hearing may help guide the Republican-controlled committee, charged with writing tax laws, to draft a blueprint for future legislation repealing and replacing the ACA. We anticipate a blueprint will be released before or during the Republican National Convention.

During the hearing, witnesses and congressmen also discussed potential outcomes if the 40% excise tax on high-cost health plans (the so-called Cadillac tax) is repealed or the tax exclusion for employer-sponsored healthcare is modified or repealed.

Comment. Repealing the Cadillac tax has garnered significant bipartisan support in both the House and Senate. Currently, there are four pending bills ([H.R. 879](#), [H.R. 2050](#), [S. 2045](#) and [S. 2075](#)) that would repeal it. Should the Cadillac tax be repealed, the question is whether it will be accompanied by a modification or elimination of the tax exclusion for employer-sponsored health coverage. Although we don’t have a crystal ball, the two may go hand in hand.

Views of Presidential Candidates

Mr. Trump, Senator Cruz and Governor Kasich have vowed to repeal the ACA.

Mrs. Clinton supports the ACA and has indicated that she would “defend” and “build on [it] ... to slow the growth of out-of-pocket costs.”

Senator Sanders says that he intends to “build upon the success of the ACA to achieve the goal of universal health care.”

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