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Government Affairs

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Headline Summary

- Telecommuters Often Distracted
- Independent Contractors
- 2012 Posters Available
- Employers Face Higher Tax
- Health Insurance Initiative Filed
- Proposed Postal Reform

Independent Contractors

SB 459 (D-Corbett) addresses the misclassification of employees as independent contractors.

The author argued that when a worker is misclassified, the worker loses more than just minimum wage and overtime protections. He or she has no workers' compensation coverage, no right to family leave, and no unemployment insurance. It creates an unfair playing field for all the responsible employers who continue to honor their lawful obligations to their employees.

Employers guilty of misclassification will now face a civil penalty of not less than $5,000 and not more than $15,000 for each violation.

WatchDog

Guarding the Business of Print December 2011

Telecommuters Often Distracted

A national survey on telecommuting shows an increase in the number of Americans working from home at least once a week, but it raises questions about how much they're actually working.

The CareerBuilder survey found that 10 percent of Americans telecommute at least once a week, up from eight percent in 2007. Here's what the survey learned:

- 40 percent of the telecommuters said they work between four and seven hours a day telecommuting.
- 35 percent said they work eight or more hours, an increase from 2007, when 18 percent claimed to have worked that much.
- 17 percent of workers in the latest survey said they spend one hour or less per day on work.

What is this last group doing instead? Telecommuters say the biggest distractions are household chores (31%), TV (26%), pets (23%), errands (19%), internet (18%), and children (15%).

2012 Posters Available

All California businesses must display up-to-date labor and safety notices, where all employees can see them to be in compliance with federal and state laws.

The 2011 posters do not meet the federal and state 2012 requirements. Updated posters include those listed below:

CA Family and Medical Leave Notice B (01/11)
CA Pregnancy Disability Leave Notice A (01/11)
CA Unemployment Insurance Benefits (05/11)
CAL/OSHA (10/11)
Employee Rights under NLRA (1/31/12)*

*We have posted a copy of the NLRA notice which is scheduled to go into effect January 31, 2012 at *www.piasc.org/pdf/human/NLRB_Employee_Rights_Poster.pdf.* The poster must be printed at 11" x 17".

However, do not post the NLRA notice until after January 31, 2012, since there are several lawsuits pending that may either stop or modify the notice.

We'll let you know whether or not to post the notice as the January 31st deadline approaches.

The posters are:

- Laminated on both sides and printed in high-quality full color
- Combo measures 27" x 39" while NLRA and San Francisco measure 11" x 17"
- Posters are guaranteed to be the most up-to-date versions available

The cost for the 2012 poster is $24.50, which includes postage and sales tax.

Employers Face Higher Taxes

Absent an act of Congress, California employers will be paying higher federal taxes starting January 1, 2012, because the state has not repaid money it borrowed from the federal government to fund unemployment insurance (UI) benefits.

The tax increase amounts to $21 per year for any employee who makes $7,000 or more in 2012. California employers pay UI taxes on the first $7,000 of wages per employee.

Statewide, the tax increase amounts to an estimated $289.8 million in 2012 and $615.7 million in 2013, according to the *California Employment Development Department (EDD) October 2011 Unemployment Insurance Fund Forecast*.

This represents a loss of 0.3% of the federal tax credit in 2011 and 0.6% in 2012. The additional taxes paid will offset California's federal loan balance.

Federal Requirements

State laws must meet certain federal requirements for employers to qualify for credits against the tax imposed under the Federal Unemployment Tax Act (FUTA).

Due to California's outstanding loan balances, the U.S. Department of Labor has notified the Internal Revenue Service and the EDD that California is a "credit reduction state."

Employers subject to unemployment tax laws of a credit reduction state must pay additional federal unemployment tax when filing a Form 940, according to the IRS website.

California has carried an outstanding loan balance for two years in a row.

Therefore, the FUTA credit for California employers will decrease from 5.4% to 5.1% on January 1, 2012, a 0.3% credit reduction, according to the EDD website. Employers will use IRS Schedule A (Form 940), Part 2, to calculate the FUTA tax, EDD reports.

Health Insurance Initiative Filed

The non-profit Consumer Watchdog Organization has recently announced its filing of the "Insurance Rate Public Justification and Accountability Act" initiative that would expand some of the concepts that were included under voter-approved Proposition 103.

Passed in 1988, Proposition 103 requires property and casualty insurance rates to be approved by the Insurance Commissioner prior to taking effect. It also changed the position of Insurance Commissioner from a Governor-appointed post to an elected position.

Among other things, the "Insurance Rate Public Justification and Accountability Act" will require health insurance companies and health maintenance organizations to file requests for rate increases with the Insurance Commissioner prior to putting new rates into effect. It also gives the Insurance Commissioner the authority to order refunds to consumers if a rate is determined to be too high prior to being reviewed.

The measure's proponents expect it to be cleared by the Attorney General's Office sometime in January and plan to collect the roughly 500,000 signatures required by May of next year.

Proposed Postal Reform

Legislation (S. 1789) introduced by Senators Collins (R-ME), Lieberman (I-CT), Carper (D-DE) and Brown (R-MA) was approved by the Senate Homeland Security and Governmental Affairs Committee on November 9th. This legislation will form the postal reform legislation considered by the full Senate.

While the bill passed the committee, it drew opposition from both pro-labor Democrats on the committee and more conservative Republicans. This opposition likely means the path forward for the bill will be difficult.

The Senate bill takes a very different approach to reform than the bill (HR 2309) passed in the House Oversight Committee in October. While the HR 2309 creates a control authority to take over management of the United States Postal Service (USPS) in the event of a default, the Senate attempts to focus on cost reductions to get the USPS to solvency.

Both bills set up processes to close unnecessary post offices. The House bill does so through the creation of a commission to oversee the closing while the Senate bill creates a more public process.

Significantly, the Senate bill reforms the federal workers compensation system to require employees who are on workers compensation, but who are also eligible for retirement, to retire. Currently, this is not required. There literally are employees in their 90's on workers' comp. The USPS represents about 40% of the workers' compensation program of the entire federal government.

Experts generally agree that the House bill as currently written can pass the House and the Senate bill likely cannot pass the Senate. Nevertheless, the USPS will need legislation to avoid running out of cash sometime in 2012. It is also generally believed that the earliest the full Senate will consider postal reform would be March 2012.

(The Print Council, December 2011)