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LEGAL ALERT



Legal Alert: Pending Legislation - What the Elections Could Mean for Your Workplace

10/13/2008

Although the Employee Free Choice Act justifiably has received the most attention as legislation that could be passed when a new President and Congress take office, other legislation is also pending that could have a significant impact on the workplace. Some of this legislation is highlighted below:

- **Arbitration Fairness Act:** This legislation would make any predispute arbitration agreement invalid for employment (and certain other) disputes. Thus, employers would no longer be able to require new hires and employees to sign mandatory arbitration agreements before a dispute arises. Employers could still request that employees agree to arbitrate after a dispute arises. Further, the legislation would not affect arbitration agreements contained in collective bargaining agreements.
- **Paycheck Fairness Act:** This proposed legislation is designed to eliminate the disparity in pay for women in the workforce. Under it, employers would have to prove that any pay differentials between men and women are based on a bona fide factor other than sex. Additionally, the legislation provides that another employment practice could not be used to rectify the pay disparity.
- **Family Friendly Workplace Act:** This legislation would amend the Fair Labor Standards Act to allow private sector employees to knowingly and voluntarily elect, by written agreement, a certain amount of paid time off as compensation for working overtime.
- **Healthy Families Act:** This legislation would require employers with 15 or more employees to provide 7 days of paid sick leave to full-time employees. Employees would be considered full-time if they worked at least 30 hours per week.
- **Employment Nondiscrimination Act:** This bill proposes to prohibit discrimination in employment based on an applicant's or employee's sexual orientation.
- **Civil Rights Act of 2008:** Among other items, this bill would eliminate the damages cap under Title VII of the Civil Rights Act.
- **Family Leave Insurance Act:** This pending legislation would provide eight weeks of paid leave under the Family and Medical Leave Act to employees who work for companies that employ at least 50 workers.

- **Survivor's Empowerment and Economic Security Act:** This bill would require companies that employ 15 or more persons to provide up to 30 days of unpaid leave for employees to handle issues arising out of domestic violence.
- **Ledbetter Fair Pay Act:** This legislation would provide that discrimination in compensation occurs every time a paycheck is issued, not just when a discriminatory compensation rate is established.

Employers' Bottom Line: Although it is not clear which, if any, of this legislation ultimately will become law, it is likely that the outcome of the upcoming elections will have an impact on the workplace. If you have questions about this pending legislation or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work or the author of this Alert, Tim Bland, a partner in our Memphis office, at tbland@fordharrison.com or 901-291-1514.