

Ballot Boxes Driving Policy, With Big Business Implications

Voters have begun to receive and complete their ballots around the country as election season reaches full swing, with dramatic implications for businesses, industries and the economy as a whole. At the federal level, regardless of which party controls the Senate and the House, experts expect greater regulation of social media and technology companies generally. Technology companies face growing scrutiny over privacy, with a top tech CEO recently stating that tech companies claiming that data collection makes their service better is “a bunch of bunk.” With Europe having adopted the General Data Protection Regulation (GDPR) giving individuals greater control over their personal data, and with the GDPR already essentially being exported to companies that do business in Europe, many U.S. companies have initiated GDPR compliance programs. Greater congressional and regulatory scrutiny of tech and privacy looms, as well as some momentum for a GDPR equivalent at the federal level to preempt states from imposing disparate compliance requirements with their own varied regulatory constructs.

Rather than awaiting federal action, many states have tackled key issues at the state level. Infrastructure continues to be a pressing need nationwide, yet federal initiatives to date have lacked funding sources, with states and municipalities being encouraged to take up infrastructure with their own funding sources and public-private partnerships. Colorado voters will face dueling ballot choices on infrastructure, with Proposition 109 requiring state borrowing of up to \$3.5 billion to fund highway projects, while directing the state to identify a source to repay the borrowed amount without raising taxes. Meanwhile, Colorado Proposition 110 would increase the state sales tax from 2.9 percent to 3.52 percent in support of a variety of transportation needs.

Hedge fund, private equity and venture capital companies recently faced an existential challenge in California when Assembly Democratic Caucus Chair Mike Gipson introduced legislation (AB 2731) levying a 17 percent tax on the income derived from investment management services, including carried interest. Revenues generated from this bill were proposed to be dedicated to education. While this measure did not pass, it will likely be reintroduced in some form, and other states are anticipated to introduce their own proposals. This bill and ones like it have significance as states seek out new funding for government priorities like education, health care and infrastructure.

Also in California, voters will consider Proposition 8, which would cap dialysis company profits at 15 percent. Such a cap would challenge companies that essentially subsidize dialysis clinics primarily treating Medicare and Medicaid patients with other more profitable clinics.

While quite a bit of sound and fury has been emanating from Washington of late, the substantive impacts of this fall’s elections around the country and the downstream policy implications will set the climate for business. In many cases, both state and federal ballot box results and elected leaders will drive substantial business decisions for years to come.

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Oct. 18, 2018

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