



Cut and Paste Post May, 2011

The Benefits of SHRM Membership

Government Affairs Information

The **ADVOCACY** link on the SHRM website (www.shrm.org) provides up to date information regarding federal legislation, federal agency actions, and state level legislative issues. This *Cut N Paste Post* is dedicated to giving GVHRA members a taste of the information provided on this link.

According to **ADVOCACY**, these are important issues facing the legislative branch of the federal government.

- **Health Care** – The Republican-controlled House will continue to attempt to dismantle the health care reform law. The House passed a bill (**H.R. 1213**) on Tuesday, May 3, to repeal another provision of the Patient Protection and Affordable Care Act (PPACA). It would eliminate the mandatory funding provided to states to establish the health care exchanges. President Obama signed a measure on April 14 (H.R. 4) to **repeal the Form 1099 provision** in the reform law. That provision would have required all businesses to report to the IRS every business transaction of \$600 or more.
- **Employment Verification** – Immigration reform will remain a top-tier issue through the 2012 presidential election. There is strong bipartisan support in Washington for Congress to act on stronger **worksite enforcement** measures. House Judiciary Committee Chairman Lamar Smith (R-TX) is poised to introduce a bill that would require all employers to use the federal government's voluntary employment verification program, E-Verify.
- **Labor Relations** – All 10 Republican senators on the Health, Education, Labor and Pensions Committee wrote a **May 3 letter to the National Labor Relations Board** (NLRB) opposing **its recent action** against The Boeing Company. On April 20, NLRB launched an adjudicatory process to prevent Washington state-based Boeing from opening an additional production line in South Carolina. The Board contends that Boeing is unlawfully transferring work away from its unionized workforce in Washington to a non-union facility. The senators assert that Boeing announced the new production line in October 2009, but the NLRB waited until April 2011 to file the complaint.

Recent Agency Actions reported on **ADVOCACY** that HR Professionals may be interested in include:

- **H-1B Visas** - The Department of Homeland Security (DHS) released a proposed rule amending its regulations for H-1B petitions, subject to numerical limitations and exemptions for those who have earned an advanced degree in the U.S. The proposal would require employers to file electronic registrations with the U.S. Citizenship and Immigration Services (USCIS) during a period of at least two weeks. If, based on the response, USCIS determines that the H-1B cap won't be reached on the first day that petitions may be filed, it will invite more registrations. Otherwise, it will close registration, randomly select registrations to file petitions, and start a waitlist



- **Veteran Non-Discrimination** - The Office of Federal Contract Compliance Programs (OFCCP) is proposing a rulemaking to update its requirements for affirmative action and nondiscrimination regarding protected veterans. The proposed rule clarifies mandatory job listing requirements, under which a contractor must provide job vacancy and contact information for each of its locations to an appropriate employment service delivery system. The rule proposes requiring contractors to engage in at least three specified types of outreach and recruitment efforts each year. In addition, the proposed rule would require that all applicants be invited to self-identify as a "protected veteran" before they are offered a job. Increasing data collection on job referrals, applicants and hires, and requiring contractors to establish hiring benchmarks to assist in measuring the effectiveness of their affirmative action efforts also are proposed.

Comments on the notice of proposed rulemaking must be submitted by June 27. Visit the federal e-rulemaking portal, <http://www.regulations.gov>, to submit comments.

- **USCIS Issues Final Rule On Employment Eligibility Verification Form**

The U.S. Citizenship and Immigration Services (USCIS) has announced a final rule that adopts, without change, an interim rule to improve the integrity of the Employment Eligibility Verification (Form I-9) process. USCIS received approximately 75 public comments in response to the interim rule, which has been in effect since April 3, 2009.

The main changes made by the interim rule and adopted by the final rule include: prohibiting employers from accepting expired documents; revising the list of acceptable documents by removing outdated documents and making technical amendments; and adding documentation applicable to certain citizens of the Federated States of Micronesia and the Republic of the Marshall Islands.

The final rule is effective on May 16, 2011. Employers may continue to use the current version of the Form I-9 (Rev. 08/07/2009) or the previous version (Rev. 02/02/2009). The Handbook for Employers, Instructions for Completing the Form I-9 (M-274) was updated on Jan. 5, 2011, and is available for review at www.uscis.gov/files/form/m-274.pdf. The I-9 form is available at: http://www.uscis.gov/files/form/i-9_cnmi.pdf

Pending Federal Legislation: Now that we've made it through the State legislative process (whew! See the last page of this *Cut n Paste* for a post mortem of this session), it's time to turn our attention to the East. At the federal level, bills are pending that will address discrimination, health care, background checks, paid and unpaid leave, and employment in general. A sample of the HR-related bills pending at the federal level is on the next page.

ADVOCACY RESOURCES:

- ☞ SHRM publishes a **Public Policy Status report** which highlights the public policy issues SHRM's Government Affairs team will be advocating on Capitol Hill and in certain state legislatures in 2011. Issues are categorized by topic areas and each topic area corresponds with the policy focus of a member of SHRM's Government Affairs team. To review SHRM's Public Policy reports, go to <http://www.shrm.org/Advocacy/PublicPolicyStatusReports/Pending/Pages/default.aspx>
- ☞ SHRM's 2011 Legislative Issues Guide is a pocket guide of the federal and state public policy priorities SHRM will be advocating throughout 2011. To view that Guide, go to: http://www.shrm.org/Advocacy/Documents/2011%20Guide%20to%20Legislative%20Issues_Web.pdf
- ☞ Track federal legislation from the **ADVOCACY** link at: <http://www.cqstatetrack.com/taxis/viewrpt/main.html?event=4bbcce66236>.

Number: US HR 190 - Updated (*Status* 03/02/2011)

Title: [Protecting America's Workers Act](#)

Abstract: Requires a state that has an approved plan for the development and enforcement of occupational safety and health standards to amend its plan to conform to the requirements of this Act within 12 months after enactment of this Act.

Number: US HR 1493 - Updated (*Text* 04/14/2011)

Title: [Fair Pay Act of 2011](#) (SEE ALSO: HR 1519 [Paycheck Fairness Act](#) and US S 788 [Fair Pay Act of 2011](#))

Abstract: ***NONE***

Number: US S 797 - Updated (*Text* 04/20/2011)

Title: [A bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex](#)

Number: US HR 1711 - Updated (*Text* 05/06/2011)

Title: [Child Care Criminal Background Check Act of 2011](#)

Abstract: ***NONE***

Number: US HR 319 - Updated (*Status* 03/02/2011)

Title: [Veterans Day Off Act](#)

Abstract: Requires such employers to post in conspicuous places on their premises a notice with information pertaining to the filing of a charge under this Act.

Number: US HR 616 - Updated (*Text* 02/13/2011)

Title: [Federal Employees Paid Parental Leave Act of 2011](#)

Abstract: Amends the Congressional Accountability Act of 1995 and the Family and Medical Leave Act of 1993 to allow the same substitution for covered congressional employees, Government Accountability Office (GAO) employees, and Library of Congress employees. Counts certain service by an employee of the executive branch, Congress, GAO, or the Library of Congress while on active duty as a member of the National Guard or Reserves as service for that branch or agency for purposes of determining such

Number: US HR 1440 - Updated (*Status* 04/16/2011)

Title: [Family and Medical Leave Enhancement Act of 2011](#)

Abstract: ***NONE***

Number: US HR 282 - Updated (*Status* 02/09/2011)

Title: [To require Federal contractors to participate in the E-Verify Program for employment eligibility verification.](#) See also US HR 693, [E-Verify Modernization Act of 2011](#) and US HR 1196 [LEAVE Act](#)

Abstract: Directs the Secretary of Homeland Security (DHS) to ensure that the Program is applied to all of the contractor's or subcontractor's employees and not just to those performing the contract or subcontract.

Number: US HR 800 - Updated (*Status* 03/02/2011)

Title: [Jobs Recovery by Ensuring a Legal American Workforce Act of 2011](#)

Abstract: Directs the Secretary of the Treasury, upon request from the Commissioner or the Secretary, to disclose: (1) taxpayer identity information of employers who paid wages with respect to which a deduction was not allowed because of illegal payments or because of being paid to unauthorized aliens, and (2) taxpayer identity information of individuals to whom such wages were paid.

Number: US HRES 163 - Updated (*Text* 03/13/2011)

Title: [Supporting the rights of all workers and calling for an end to the recent attacks on workers.](#)

Abstract: Urges Americans to work towards cessation of the constant attacks on workers and recognize that a strong middle class is the only way to ensure the United States remains a strong economic engine.

Ceridian Reader's Poll: How does your Organization "Measure Up"?

Recently, Ceridian, in its weekly HR Compliance Solutions Abstracts, has been conducting reader polls on various issues. The questions asked, and the poll responses received, follow.

Have you been subjected to workplace bullying in the last 6 months?

- Yes: 32%
- No: 57%

Would you report your closest co-worker for stealing office equipment?

- I would report my closest co-worker for stealing office equipment worth \$50: 74%
- I would report my closest co-worker for stealing office equipment worth \$100: 9%
- I would report my closest co-worker for stealing office equipment worth \$500: 10%
- None of the above: 8%

Should private employers be allowed to refuse employment to individuals who own firearms?

- Yes: 11%
- No: 86%
- Other Answers: 3%

Does your workplace include policies or programs that promote a healthy work-life balance for employees?

- Yes: 50%
- No: 50%

Montana 2011 Legislative Session Post Mortem

Throughout the legislative session, I tried to track the bills I thought GVHRA members would be most interested in. What follows are these "bills of interest", by bill number, and their outcomes. While many died, some have already become law, some will become law July 1st or later and some are waiting for the Governor's signature (or veto, which has been common this year). The links should work. If not, see the final text of the Bill by going to [http://laws.leg.mt.gov/laws11/law0203w\\$.startup](http://laws.leg.mt.gov/laws11/law0203w$.startup) and entering the Bill number.

Bill Type - Number	Primary Sponsor	Status (* = probably dead)	Status Date	Short Title
HB 43	Gary MacLaren	(H) Transmitted to Governor	4/27/2011	Clarifying employer's rights related to employee use of medical marijuana
HB 57	Cynthia Hiner	Chapter Number Assigned	3/16/2011	Allow informal service of process in board of personnel appeals proceedings
HB 80	Elsie Amtzen	Chapter Number Assigned	4/7/2011	Revise unemployment insurance law
HB 84	Carlie Boland	Chapter Number Assigned	3/16/2011	Clarify Wage Payment Act - re: definitions - wage trust account
HB 161	Mike Milburn	(H) Vetoed by Governor*	4/13/2011	Repeal medical marijuana law
HB 185	Tom Berry	Chapter Number Assigned	4/8/2011	Ban synthetic marijuana

Bill Type - Number	Primary Sponsor	Status	Status Date	Short Title
HB 186	Chuck Hunter	(H) Vetoed by Governor*	5/6/2011	Continue allocation to Worksafe Montana thru assessment on work comp insurer
HB 283	Liz Bangerter	(H) Vetoed by Governor*	5/6/2011	Allow sex to be considered in certain insurance coverage
HB 284	Tom Burnett	(H) Died in Standing Committee*	4/28/2011	Discontinue state employee efforts related to federal health care reform
HB 300	Kelly Flynn	Chapter Number Assigned	4/18/2011	Allow more than 8 hour workday for certain industries if agreed to
HB 334	Scott Reichner	Chapter Number Assigned	4/12/2011	Generally revise workers' compensation
HB 358	Gary MacLaren	(H) Vetoed by Governor*	4/28/2011	Revise Montana medical savings account contribution limits
HB 359	Gordon Vance	Chapter Number Assigned	3/23/2011	Revise workers' compensation law on settlements & lump-sum payments
HB 368	Wendy Warburton	(H) Died in Standing Committee*	4/28/2011	Allow keeping firearm in parked vehicle or while on employer's business
HB 371	Jerry O'Neill	(H) Died in Standing Committee*	4/28/2011	Revise Statues on practice of law.
HB 440	Daniel R Salomon	(H) Died in Standing Committee*	4/28/2011	Require all public and private employers to use E-Verify program
HB 573	Chuck Hunter	Chapter Number Assigned	4/1/2011	Generally revise health insurance laws for data and analysis generation
HB 577	Wayne Stahl	(H) Vetoed by Governor*	5/10/2011	Revise taxes by removing tip income for workers' compensation purposes
HB 590	Edith (Edie) McClafferty	(H) Died in Standing Committee*	4/28/2011	Create health insurance pooling for certain public employees
HB 601	Champ Edmunds	(H) Died in Standing Committee*	4/28/2011	Revise business and labor law to limit use of credit history in employment
HB 609	Gary MacLaren	(H) Died in Process*	4/28/2011	Referendum on freedom to choose health insurance coverage
HB 612	Don Roberts	(H) Vetoed by Governor*	5/9/2011	Generally revise state healthcare laws to implement House Bill No. 2
HJ 33	Gary MacLaren	(H) Filed with Secretary of State	4/29/2011	Interim study on state health insurance exchange
SB 29	Lynda Moss	(S) Transmitted to Governor	5/4/2011	Mandatory alcohol server and sales training
SB 106	Jason Priest	(S) Transmitted to Governor	5/4/2011	Compel participation in lawsuit on health care reform
SB 125	Art Wittich	(S) Transmitted to Governor	5/4/2011	Prohibit state gov't from administering fed health insurance purchase reqmnt
SB 196	Jonathan Windy Boy	(S) Died in Standing Committee*	4/28/2011	Address bullying in the workplace
SB 228	Jason Priest	(S) Vetoed by Governor*	4/13/2011	Prohibit creation of health insurance exchange under PPACA
SB 242	John Brenden	Chapter Number Assigned	4/21/2011	Revising workers' compensation law on agricultural workers
SB 287	Jim Keane	Chapter Number Assigned	4/15/2011	Require certain corporate officers or managers of LLC's to obtain work comp
SB 290	Ryan Zinke	Chapter Number Assigned	4/15/2011	Exclude independent contractor as employee under Human Rights Act
SB 342	Edward Buttrey	Chapter Number Assigned	3/30/2011	Define misconduct for unemployment insurance laws
SB 370	Jason Priest	(S) Vetoed by Governor*	4/13/2011	Require cost-benefit analysis of mandated health insurance coverage of service
SB 423	Jeff Essmann	(S) Transmitted to Governor	5/3/2011	Generally revise laws relating to use of marijuana