

Maine SHRM Government Affairs Update

February 10, 2011

This is part of a series of updates to keep you up on the decisions being made on our behalf in both bodies. As I have mentioned, I am tweeting more regularly than issuing updates of this kind, so feel free to check my twitter feed at any time or to follow me if you like. So it's handy, here is all relevant contact information:

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<http://tinyurl.com/MaineSHRMLegNews> (our Maine State Government Affairs information page)

<http://twitter.com/mainelyhr> (government affairs twitter feed)

Human Resources Professionals Day

Please save the date and encourage attendance! This will be unlike previous events with our new state leaders and initiatives, so you will not want to miss it! The event is posted at:

<http://meshrm.shrm.org/events/2011/04/professionals-day-state-house> . Our team is busy filling our agenda with VIPs and learning opportunities. There are several new options this year, including the chance to meet with your legislator directly. Please contact Sarah if you wish to volunteer to be part of this special event.

Maine

Executive

Public hearing and Senate confirmations are underway for Cabinet appointees and others. Here is an update to those we are tracking to date.

Date of Hearing	Department	Commissioner-nominee	Status
01/18/2011	Administrative & Financial Services	H. Sawin Millett, Jr.	Confirmed
01/20/2011	Conservation	William H. Beardsley	Confirmed
01/20/2011	Economic & Community Development	Philip A. Congdon	Confirmed
01/20/2011	Marine Resources	Norman H. Olsen	Confirmed
01/24/2011	Public Safety	John Morris	Confirmed
01/25/2011	Environmental Protection	Darryl N. Brown	Confirmed
02/01/2011	Health & Human Services	Mary Mayhew	Confirmed
02/03/2011	Agriculture	Walter E. Whitcomb	Confirmed
02/08/2011	Transportation	David B. Bernhardt	Confirmed
02/14/2011	Corrections	Joseph Ponte	TBD
TBD	Labor	Cheryl Russell	TBD
TBD	Inland Fisheries & Wildlife	Chandler Woodcock	TBD
TBD	Education	TBA	TBD

We have long awaited the nomination of Labor Commissioner. Please read more about Nominee Russell at:

<http://www.maine.gov/tools/whatsnew/index.php?topic=Gov+News&id=196891&v=article2011>

The supplemental budget was adopted and signed into law this week. Detail on the budget and the vote can be found here: <http://www.maine.gov/tools/whatsnew/index.php?topic=Gov+News&id=196431&v=article2011>

The Governor will be holding a public meeting at 11 am, Thursday, February 10, 2011 to present his new two-year budget proposal. You can watch it live at http://www.maine.gov/legis/house/h_video.htm .

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The lawsuit that Maine joined in Florida challenging the individual mandate of the ACA was successful; this makes two district court rulings in support of the constitutionality of the provision and two against. It is expected the Supreme Court will hear the case. A US Senate Committee heard testimony last week from legal experts about the likelihood of the provision withstanding the scrutiny of the highest court. You can watch the hearing here: <http://www.c-spanvideo.org/program/Constitutionality>

Legislature

We are now seeing hearings on bills come up quickly as the Governor's cabinet has nearly been filled and the supplemental budget approved. There have been 496 bills posted out of the Revisor's Office to date with many more on the way. A bill submitted after cloture to ban high-capacity gun clips was not approved by the Legislative Council. The proposal would have prohibited sales in Maine of the type of ammunition used in the recent Tucson shooting. More here: http://www.pressherald.com/news/Council-kills-bill-to-ban-high-capacity-gun-clips_2011-01-29.html#

Here are some bills of note to date, with hearing dates where available. Please contact your Chapter Government Affairs Chair for details or contact Sarah with questions, concerns or other feedback.

- **LD1 – An Act To Ensure Regulatory Fairness and Reform – This concept bill will be heard on February 14th.** It is expected that feedback from the Chamber red tape audit meetings and Regulatory Reform Committee tour will make up the text of the bill. We are assured there will be more than one hearing as this first hearing is likely to focus on the DEP reforms encapsulated here: <http://www.maine.gov/legis/opla/phase1gov.pdf> . The original concept bill is still posted as the text for discussion on Monday. We will notify you when new language is posted.
- **LD 35 - An Act Relating to Concealed Firearms Locked in Vehicles** –This bill provides that an employer may not prohibit an employee with a valid concealed firearms permit from keeping a firearm in the employee's vehicle as long as the vehicle is locked and the firearm is not visible. SHRM is opposed, the Maine Chamber will oppose. MESHSM formulating position now. Concerns are employer control of employer property, workplace safety and esp. domestic violence issues in ME.
- **LD 60 - An Act To Extend Coverage under the State's Mini-COBRA Law** - This new bill appears to be trying to give more generous COBRA rights than under fed law to those eligible for mini and "regular" COBRA. **The public hearing is slated for February 9th, with a work session on February 16th.** We are working with other groups on how to address additional healthcare related bills proposed this session in the face of the ACA and the challenges thereto.
- **LD 152 - An Act To Prohibit Employment Discrimination Based on a Prior Criminal Conviction** – This law would forbid employers to hold criminal convictions against applicants if it's not directly related to the job. MEGAT is currently working via the Chamber to oppose this. **The public hearing is slated for February 16th.**
- **LD 169 - An Act To Allow Veterans Who Work for Employers with More than 50 Employees To Take Veterans Day Off with Full Pay** – This would require employers to give all veterans Veterans' Day off with full pay. MEGAT is currently working via the Chamber to oppose this. **The public hearing is slated for February 16th.**
- **LD 207 - An Act To Amend the Laws Regarding Tips Used in Payment of Service Employees** – this would allow employers to keep tipped employees tips. MEGAT is recommending no official position from the State Council on this bill. **The public hearing is slated for February 16th.**
- **LD 269 – An Act To Implement a Maine Unemployment Insurance Work-sharing Program** - This bill creates a worksharing program as an alternative to layoffs during a temporary slowdown in business. This would allow an employer to avoid layoffs by reducing the number of regularly scheduled hours of work for all workers in a specific unit or department or the business as a whole. Unemployment insurance benefits for the reduced hours of work are then payable as a proportion of the benefit amount for a full week of unemployment. This requires an approved plan in place at the employer. Similar plans have been successful in other states and MEGAT is working with the Chamber and other groups to see what input we might offer the committee as they consider this bill. MEGAT would support if the program is designed with the input and supported by the DOL commissioner.

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We are also tracking a number of WC bills that have not yet been printed. It appears with a new WC Board Executive Director and a new approach in Augusta, we will see a lot more WC related legislation. Between 2002 and today, many WC issues were addressed through regulatory action and/or board decision making. It is expected that that will no longer be the case. There are four expected that were drafted by the Chamber which we expect we will support and one suggested by our own Jen Curran which we also expect to support. The Chamber's bills are mainly technical corrections long overdue. The bill Jen would like to see passed is similar to a measure that didn't succeed in the 124th legislature. Under current law, an employer is placed in a high-risk pool if the employer has at least 2 lost-time claims, each greater than \$10,000 of incurred loss during the previous 3-year experience rating period. This bill increases the incurred loss amount from \$10,000 to \$40,000. Besides all this, there are some rather sweeping WC bills also proposed. It remains to be seen which approaches will prevail and we will follow this and keep you apprised so you can weigh in.

With regard to the SHRM Maine State Council's official position guidelines, we expect them to be formally adopted and communicated late this week. Thanks to everyone for their input and assistance so we can officially take positions as a council. We plan spend our political capital wisely as we earn it, so you will see some official positions and some bills where you might just want to weigh in on your own on. In all cases, we will keep you posted and you will have a say.

Maine Extras

May we recommend? Richelle Wallace and Joel Allumbaugh are hosting a new show tv show on healthcare in Maine: <http://www.insidemainehealthcare.tv/>. Recent offerings include the certificate of need (CON) process in Maine and an exploration of Rule 850, which has a big impact on health plan costs and coverage here in Maine.

US

Of course there is a lot going on in DC too right now. Here are some updates and items to keep in mind.

- Both Representatives Pingree and Michaud voted no this week on the extension of several expiring provisions of the USA Patriot Act.

Other HR-Related Issues to Note

- The GINA II final regs are out and were effective on January 10th. You will want to review your wellness programs as well as your FMLA certification request procedures if you have not already done so.
- There has been a huge increase in wage and hour litigation nationally. This is what the DOL is attempting to address with its right-to-know initiatives. The claims not only include independent contractor and FLSA misclassifications, but also rest-break violation cases. One area particularly ripe for litigation is the use of smart phones by nonexempt employees.

As you know, the NRLA has issued some proposed regulations to require a new employer workplace posting for private employers similar to the one recently required for government contractors. The regs would require NLRA notice in all workplaces *similar* to the one for subcontractors here: <http://www.dol.gov/olms/regs/compliance/EO13496.htm>

Comments are due at DOL by 2/22. You can submit your comments using the information below. If you would like a copy of SHRM's recommended language, please let me know. Comments should be identified by 3142-AA07 and may be sent electronically through www.regulations.gov, or mailed to Lester A. Heltzer, Executive Secretary, National Labor Relations Board, 1099 14th St. NW, Washington, DC 20570. ***Our State Council is currently considering SHRM's official comments and will likely add our voice to their efforts.*** If you have not seen SHRM's comments and wish to, please contact Sarah.