

Maine SHRM Government Affairs Update

January 28, 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	Recommended by Committee, awaiting confirmation in Senate
02/01/2011	Health & Human Services	Mary Mayhew	TBD
02/03/2011	Agriculture	Walter E. Whitcomb	TBD
02/08/2011	Transportation	David B. Bernhardt	TBD
02/14/2011	Corrections	Joseph Ponte	TBD

You may have noticed a lot of news coming out of the Governor's Office and the Governor himself of late. I include this link about his talk to the Associated Contractor's annual meeting because it is the first I have seen the Governor begin to lay out the order of his plans for regulatory reform and he mentions Labor by name:

http://www.kjonline.com/news/lepage-to-contractors-work-being-done-to-ease-regulations_2011-01-26.html#

Also this week, the Governor released the first of his proposals for the Regulatory Fairness and Reform Committee to consider and possibly include in LD 1 or another bill. <http://www.maine.gov/legis/opla/phase1gov.pdf> . The red tape audit meetings are still being conducted in Maine – please see below for more on the meetings of the Regulatory Fairness and Reform Committee listening tour. Here is the Red Tape Audit schedule:

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http://www.maine.gov/governor/lepage/issues/red_tape_audit.shtml . I hope you will have a moment to attend a meeting of either group to have your say.

The Governor has also issued several executive orders recently; you may wish to check from time to time at: http://www.maine.gov/governor/lepage/issues/executive_orders.shtml . You will particularly note the one disbanding the task force on employer misclassification.

Also this week, there was a bit of an uproar about the possibility of privatizing Maine's Corrections system, not only the federal prison they are trying to build in Milo, but possibly others. This will bear watch for us as these will be private employers with HR functions among other considerations. I found this article illuminating:

<http://www.sunjournal.com/state/story/975674>

As you may already know, Maine has joined the lawsuit in Florida challenging the individual mandate of the ACA.

Legislature

As mentioned above, here is the schedule for the regulatory reform committee meetings around the state: <http://www.mainelegislature.org/legis/committeeNotices/OpenDocument.aspx?id=33&Title=Public%20Meetings>

There have been 211 bills posted out of the Revisor's Office to date with many more on the way. The Legislature is busy now with the Governor's supplemental budget bill as well as confirming appointees so hearings for bills are a little late out of the gate this year. The list of all the bills without details is available now and includes a bill modeled on the one in AZ to allow residents to be challenged to prove immigration status. This is the "papers please" law you likely heard about last year.

Our growing list of bills of note includes these. I have included hearing dates if scheduled:

- LD1 – **An Act To Ensure Regulatory Fairness and Reform** - this is very much a placeholder at the moment, but it is anticipated that it will be filled with feedback from the red tape audit tour and other efforts to streamline Maine's regulations.
- LD 35 - **An Act Relating to Concealed Firearms Locked in Vehicles** – this SHRM is opposed, the Maine Chamber will likely oppose. MESHRM 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 2nd, with a work session on February 9th.**
- 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.
- 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.
- 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.

US

Senator Collins filed S. 112 this week to permanently increase the truck weight limits on interstate roads. Here is the bill: <http://thomas.loc.gov/cgi-bin/bdquery/D?d112:1:./temp/~bd50ON:@@P|/bss/>

Other HR-Related Issues To Note

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DOL

Wage & Hour Division requests information on their preliminary interpretations of Nursing Mother provisions included in Health Care reform law.

- DOL seeks information on how to interpret “reasonable break time,” location “shielded from view” and “free from intrusion,” and undue hardship exemption for small employers.
- SHRM submitting comments that are due February 22.

U.S. Supreme Court - SHRM amicus brief

- Dukes v. Wal-Mart – class action of over one million female employees alleging sex discrimination in pay and promotion.
- Plaintiffs argue that Wal-Mart’s centralized corporate policies coupled with “excessive” subjectivity in personnel/performance reviews by managers at individual stores results in systemic gender bias.
- SHRM brief focuses on explaining HR practices.

EEOC

- *ADA amendments Act Rules* – EEOC unanimously approved at end of December. SHRM believes this means the rules were likely changed to better reflect the compromise legislation.
 - > Currently in OMB review. Once approved will be published in Federal Register.
- *Focus on Employer Use of Credit Checks* – hearing late last year on disparate discriminatory impact of credit checks on minorities.
- The EEOC recently ruled that the Ledbetter Fair Pay Act does not apply to pension payments.
<http://www.hrpolicy.org/downloads/2010/EEOC%20decision%20on%20application%20of%20Ledbetter%20to%20Pensions.pdf>

NLRB

As you know, the NLRB 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 NLRB 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 has requested that we be allowed to see and sign off on SHRM’s official comments as well.***

Interestingly the 2010 Labor union member rate fell to 11.9% from 12.3% in 2009. The private sector rate is at 6.9%:
<http://www.bls.gov/news.release/union2.nr0.htm>

OSHA

OSHA has withdrawn both the hearing and MSD proposed standards under consideration.