

Towers Perrin Legislative Tracking Chart

-- Human Resources --

Updated March 30, 2006

What's New:

An immigration reform bill (S. 2454) was introduced that would prohibit employers from knowingly hiring, recruiting, or referring individuals who aren't authorized to work in the U.S. S. 2454, and a different immigration bill approved this week by the Senate Judiciary Committee (S. 1033), will soon be debated by the full Senate.

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The chart summarizes selected federal legislation that would affect employee benefit programs. The bills included on the chart are based on judgments regarding the prominence of the issue, the likelihood of enactment, and the influence of the sponsors.

Fair Labor Standards Act Reform

Bill	Summary	Status
<p>Safe Nursing and Patient Care Act of 2005</p> <p>H.R. 791 Stark (D-CA)</p> <p>S. 351 Kennedy (D-MA)</p>	<p>Mandatory overtime. Amends the Social Security Act to prohibit certain health care employers that receive Medicare payments from requiring nurses to work overtime. Defines overtime as any time worked in excess of a scheduled daily shift, more than 12 hours in a 24-hour period, or more than 80 hours in a consecutive 14-day period. Also protects these workers from discrimination if they refuse to work overtime beyond those limits and imposes financial penalties on employers for willful violations.</p>	<p>H.R. 791 was introduced on February 14, 2005 and referred to the House Energy and Commerce, and the House Ways and Means Committees.</p> <p>S. 351 was introduced on February 10, 2005 and referred to the Senate Finance Committee.</p> <p>These bills are identical to legislation introduced in the 107th and 108th Congress.</p>
<p>Overtime Rights Protection Act</p> <p>S. 223 Harkin (D-IA)</p>	<p><i>Overtime pay exemption regulations.</i> Prohibits the DOL from implementing any portion of their FLSA overtime pay exemption regulations that would cause an employee to lose entitlement to overtime pay. In addition, the bill would increase the number of workers entitled to overtime pay by raising the minimum weekly salary threshold for exemption to \$591 (currently \$455 under the DOL's regulations).</p>	<p>Introduced on January 31, 2005 and referred to the Senate HELP Committee.</p> <p>Most recently, Harkin's legislation was included in the 2005 Omnibus Appropriations Bill, but was stripped from the bill text upon a veto threat by President Bush.</p>
<p>Fair Minimum Wage Act of 2005</p> <p>S. 1062 Kennedy (D-MA)</p> <p>H.R. 2429 Miller (D-CA)</p>	<p><i>Minimum wage.</i> Amends the FLSA to incrementally increase the minimum wage from \$5.15 to \$7.25 an hour in three steps over the next two years. Specifically, the minimum wage would increase to \$5.85 on the 60th day after enactment, to \$6.55 12 months after the first increase, and to \$7.25 24 months after the first increase.</p>	<p>S. 1062 was introduced on May 18, 2005 and was placed on the Senate calendar.</p> <p>H.R. 2429 was introduced on May 18, 2005 and referred to the House Education and the Workforce Committee.</p>
<p>Fair Wage, Competition, and Investment Act of 2005</p> <p>S. 14 Stabenow (D-MI)</p>	<p><i>Overtime pay exemption regulations.</i> Prohibits the DOL from implementing any portion of their FLSA overtime pay exemption regulations that would cause an employee to lose entitlement to overtime pay. In addition, the bill would increase the number of workers entitled to overtime pay by raising the minimum weekly salary threshold for exemption to \$591 (currently \$455 under the DOL's regulations).</p> <p><i>Minimum wage.</i> Amends the FLSA to incrementally increase the minimum wage from \$5.15 to \$7.25 an hour in three steps over the next two years.</p>	<p>Introduced on January 24, 2005 and referred to the Senate Finance Committee.</p>
<p>H.R. 1091 English (R-PA)</p>	<p><i>Minimum wage.</i> Amends the FLSA to incrementally increase the minimum wage from \$5.15 to \$6.50 an hour in three steps over a three-year period.</p> <p><i>FLSA Coverage.</i> Increases the annual gross volume of sales threshold for FLSA coverage from \$500,000 to \$1 million incrementally over a three-year period, and exempts employers with less than 10 employees from the FLSA minimum wage requirements.</p>	<p>Introduced March 3, 2005 and referred to the House Education and the Workforce, and Ways and Means Committees.</p>

Family and Medical Leave Reform

Bill	Summary	Status
<p>Paid Family and Medical Leave Act of 2005</p> <p>H.R. 3192 Stark (D-CA)</p>	<p><i>Paid sick leave.</i> Amends the Family and Medical Leave Act of 1993 (FMLA) to provide employees with 12 weeks of paid leave over a 12-month period for the following purposes: (i) the birth of a child; (ii) the placement of an adopted or foster child; (iii) to care for a child, parent, spouse or other members of the employee's household who have a serious medical condition; or (iv) because of the employee's own serious health condition. The bill would cover a broader definition of employees and employers than under the current FMLA. Payments would be made from a government-created trust fund, although employer voluntary plans also may be approved. Starting in 2006, employers would pay a .4% tax on employees' wages (except if the employer provides an equivalent or better voluntary plan) and the benefit would be up to 55% of a weekly salary of \$1,350 (maximum benefit of \$742.50 a week which is increased each year by the annual national average wage index). The bill would apply to periods of leave commencing on or after January 1, 2008.</p>	<p>Introduced on June 30, 2005 and referred to the House Education and the Workforce and the House Ways and Means Committees.</p>
<p>Healthy Families Act</p> <p>S. 932/S. 1085 Kennedy (D-MA)</p> <p>H.R. 1902 DeLauro (D-CT)</p>	<p><i>Paid sick leave.</i> Requires employers of 15 or more employees to provide seven days of paid sick leave annually to employees working at least 30 hours per week. Part-time employees would receive a pro rata number of paid sick days. The leave could be used (i) for the employee's medical condition, (ii) to obtain medical care (including preventive care) or diagnosis, or (iii) to care for an ill or injured family member.</p>	<p>S. 932 was introduced on April 27, 2005 and referred to the Senate HELP Committee. S. 1085 was introduced on May 19, 2005 and was placed on the Senate Legislative Calendar.</p> <p>H.R. 1902 was introduced on April 27, 2005 and referred to the House Administration, the House Education and the Workforce, and the House Government Reform Committees.</p>
<p>H.R. 279 Millender-McDonald (D-CA)</p>	<p><i>FMLA expansion.</i> Amends the Family and Medical Leave Act of 1993 to include nurse practitioners in the definition of health care provider, and domestic partners in the definition of spouse. In addition, the bill would extend the period of FMLA leave for spouses employed by the same employer from 12 to 24 workweeks per year.</p>	<p>Introduced on January 6, 2005 and referred to the House Administration, House Education and the Workforce, and the House Government Reform committees.</p>

Employment Discrimination

Bill	Summary	Status
<p>A bill to amend the age restrictions for pilots</p> <p>S. 65 Inhofe (R-OK)</p> <p>H.R. 65 Gibbons (R-NV)</p>	<p><i>Age discrimination.</i> Raises the mandatory retirement age for commercial airline pilots from 60 to 65.</p>	<p>S. 65 was approved by the Senate Commerce, Science and Transportation Committee on November 17, 2005.</p> <p>H.R. 65 was introduced on January 4, 2005 and referred to the House Transportation and Infrastructure Committee.</p> <p>In May, the US Supreme Court refused a request from a pilot's group to review the federal rule mandating their retirement when they reach age 60.</p>
<p>Security and Financial Empowerment Act</p> <p>H.R. 3185 Roybal-Allard (D-CA)</p>	<p><i>Domestic violence discrimination.</i> Prohibits employers of 15 or more employees from discriminating against victims of domestic or sexual violence, in areas such as hiring, compensation and other terms of conditions of employment. Employers would be required to reasonably accommodate the known limitations of employees who are victims of domestic or sexual violence unless doing so would pose an undue hardship.</p> <p>For a summary of the bill's provisions regarding unpaid leave, see H.R. 3185 below.</p> <p>[See the H&W LTC for a summary of the bill's health benefit-related provisions.]</p>	<p>Introduced on June 30, 2005 and referred to the House Education and the Workforce, the House Financial Services, and the House Ways and Means Committees.</p>
<p>Paycheck Fairness Act</p> <p>S. 841 Clinton (D-NY)</p> <p>H.R. 1687 DeLauro (D-CT)</p>	<p><i>Wage discrimination.</i> Amends the Equal Pay Act to revise the remedies for, and enforcement of prohibitions against, sex discrimination in the payment of wages by: (i) expanding the law's nonretaliation requirements; (ii) enhancing penalties; and (iii) authorizing the Secretary of Labor to seek additional compensatory or punitive damages.</p>	<p>S. 841 was introduced on April 19, 2005 and referred to the Senate HELP Committee.</p> <p>H.R. 1687 was introduced on April 19, 2005 and referred to the House Education and the Workforce Committee.</p>
<p>Genetic Information Nondiscrimination Act of 2005</p> <p>S. 306 Snowe (R-ME)</p> <p>H.R. 1227 Biggert (R-IL)</p>	<p><i>Genetic non-discrimination.</i> Prohibits employers from using genetic information in employment decisions, including in hiring, firing, compensation, job assignments and promotions. Employers would be permitted to collect genetic information only in limited circumstances and would be required to keep it confidential, as part of an employee's medical records, and limit its disclosure.</p> <p>[See the H&W LTC for a summary of the bill's health benefit-related provisions.]</p>	<p>The Senate unanimously (98-0) approved S. 306 on February 17, 2005.</p> <p>A companion bill (H.R. 1227) was introduced in the House on March 10, 2005, and was referred to the House Education and the Workforce, House Energy and Commerce, and House Ways and Means Committees.</p>

Employment Discrimination

Bill	Summary	Status
Job Training Improvement Act of 2005 H.R. 27 McKeon (R-CA)	<i>Religious discrimination.</i> Exempts faith-based religious organizations from a Workforce Investment Act provision conditioning federally funding on the entity not discriminating in hiring on the basis of an applicant's religion.	The House passed H.R. 27 on March 2, 2005 by a 224-200 vote. On May 18, 2005, the Senate HELP Committee passed its version of the Job Training bill (S. 1021), however, that bill does not include the religious discrimination provision described in the "Summary" column.
Workplace Religious Freedom Act of 2005 H.R. 1445 Souder (R-IN) S. 677 Santorum (R-PA)	<i>Religious discrimination.</i> Amends Title VII of the Civil Rights Act to enhance employees' right to wear religious clothing at the workplace, to take time off for a holy day, or to participate in a religious observance or practice. The bills also would clarify the factors used to determine whether accommodating an employee's religious practices would pose an "undue hardship" for an employer.	H.R. 1445 was introduced March 17, 2005, and referred to the House Education and the Workforce Committee. On November 10, 2005 the House Subcommittee on Employer-Employee Relations held a hearing on the bill. S. 677 was introduced March 17, 2005, and referred to the Senate HELP Committee.

Labor Law Reform

Bill	Summary	Status
<p>Employee Free Choice Act</p> <p>H.R. 1696 Miller (D-CA)</p> <p>S. 842 Kennedy (D-MA)</p>	<p><i>"Card check" recognition.</i> Amends the NLRA to require recognition of a union as the bargaining representative whenever a majority of employees sign a card or petition authorizing such representation (under current law, management can refuse to recognize "card checks" and can instead insist on a formal election). The bill would also require employers to begin bargaining for a first contract within 10 days of a written request to bargain, provide for mediation and arbitration for first contract disputes, and impose stronger penalties against employers for violating employees' rights to participate in an organizing or first contract drive.</p>	<p>H.R. 1696 was introduced on April 19, 2005 and referred to the House Education and the Workforce Committee.</p> <p>S. 842 was introduced on April 19, 2005 and referred to the Senate HELP Committee.</p>
<p>Fair Wages for Hurricane Victims Act</p> <p>H.R. 3763 Miller (D-CA)</p> <p>S. 1749 Kennedy (D-MA)</p>	<p><i>Davis-Bacon Act.</i> Reinstates the Davis-Bacon Act requirements to pay prevailing wages on covered federal construction contracts in counties affected by Hurricane Katrina, notwithstanding President Bush's indefinite suspension of those requirements in Katrina-affected areas on September 8, 2005.</p> <p>[UPDATE: On October 26, 2005, the DOL announced that the prevailing wage requirements will be reinstated effective November 8, 2005. As a result, it's highly unlikely that H.R. 3763 or S. 1749 will be enacted.]</p>	<p>H.R. 3763 was introduced on September 14, 2005 and referred to the House Education and the Workforce Committee.</p> <p>S. 1749 was introduced on September 21, 2005 and referred to the Senate HELP Committee.</p> <p>In a related development, DOL Secretary Chao announced on September 14 that the Administration does not plan to suspend the prevailing wage requirements in Katrina-affected areas for federal service contracts under the Service Contract Act.</p>
<p>Cleanup and Reconstruction Enhancement (CARE) Act</p> <p>S. 1817 DeMint (R-SC)</p>	<p><i>Davis-Bacon Act.</i> Suspends for one year the Davis-Bacon Act requirements to pay prevailing wages on covered federal construction contracts in areas declared by the President to be major disasters.</p>	<p>S. 1817 was introduced on October 4, 2005 and referred to the Senate HELP Committee.</p>

Other Human Resource Bills

Bill	Summary	Status
<p>Gulf Opportunity Zone Act of 2005</p> <p>H.R. 4440 McCrery (R-LA)</p> <p>P.L. 109-135</p>	<p><i>Hurricane relief.</i> Expands on the Katrina Emergency Tax Relief Act of 2005 (P.L. 109-73, below) to modify the “employee retention” tax credit so that it applies to the Katrina, Rita and Wilma zones without regard to the size of the employer.</p> <p>[See the H&W and Retirement LTCs for a summary of the bill’s health benefit and retirement-related provisions.]</p>	<p>President Bush signed this bill into law on December 21, 2005.</p>
<p>Katrina Emergency Tax Relief Act of 2005 (KETRA)</p> <p>H.R. 3768 McCrery (R-LA)</p> <p>P.L. 109-73</p>	<p><i>Hurricane Katrina relief.</i> Extends the Work Opportunity Tax Credit (WOTC) to enable employers to claim a tax credit for hiring certain individuals who were displaced by Hurricane Katrina. The bill also would provide employers with an “employee retention” tax credit related to wages paid to employees during the time period a business was rendered inoperable due to Hurricane Katrina. The credits generally equal 40% of the first \$6,000 of wages paid to the employee during the year.</p> <p>Also see KETRA expansion legislation (P.L. 109-135) above.</p>	<p>President Bush signed this bill into law on September 23, 2005.</p>
<p>Securing America's Borders Act</p> <p>S. 2454 Frist (R-TN)</p>	<p><i>Immigration reform.</i> Included in this broad-based immigration reform bill are provisions prohibiting employers from hiring, recruiting, or referring an individual with knowledge or with reason to know of the individual’s illegal status. Prohibits employers from hiring individuals without complying with specified identification and employment documentation verification requirements, along with a new “electronic employment verification system”. Establishes criminal penalties for employers who engage in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens (fine of \$10,000 per unauthorized alien, up to 6 months in jail, or both).</p>	<p>S. 2454 was introduced on March 16, 2006. The Senate Judiciary Committee approved an immigration reform bill (S. 1033) on March 27, 2006, which differs from S. 2454, and includes a controversial “guest worker” program. The full Senate is expected to consider both bills in the coming weeks.</p>
<p>Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005</p> <p>H.R. 4437 Sensenbrenner (R-WI)</p>	<p><i>Immigration reform.</i> Increases penalties that can be imposed on employers for hiring employees that are not documented to legally work in the U.S. Unless the employer acted in good faith, penalties for a first offense would be \$7,500 per employee, with fines ranging up to \$40,000 per employee for multiple offenses. The bill also requires employers to electronically verify the U.S. employment eligibility of all their employees within six years.</p>	<p>The House passed H.R. 4437 on December 16, 2005 by a 239-182 vote.</p>
<p>Military Family Support Act of 2005</p> <p>S. 1888 Jeffords (I-VT)</p>	<p><i>Military Service Caregiver Leave.</i> Encourages private sector employers to voluntarily participate in a temporary program under which employees would be permitted to take a leave of absence to care for a family member of an individual while engaged in military service.</p>	<p>S. 1888 was introduced on October 19, 2005 and referred to the Senate Committee on Homeland Security and Governmental Affairs.</p>

Other Human Resource Bills

Bill	Summary	Status
<p>Gasoline Affordability and Security (GAS) Act</p> <p>S. 1868 Santorum (R-PA)</p>	<p><i>Telecommuting tax credit.</i> Grants a tax credit to employers and employees for expenses incurred under a "teleworking arrangement" for furnishings and electronic information equipment which are used to enable an individual to telework. The maximum tax credit available to an employer for expenses incurred on behalf of an individual teleworker would be \$2,000.</p>	<p>S. 1868 was introduced on October 7, 2005 and referred to the Senate Finance Committee.</p>
<p>Security and Financial Empowerment Act</p> <p>H.R. 3185 Roybal-Allard (D-CA)</p>	<p><i>Domestic violence leave.</i> Requires employers of 15 or more employees to allow up to 30 days of unpaid leave in any 12-month period for victims of domestic or sexual violence so that they can address related needs, such as finding a new place to live, obtaining medical care, seeking counseling, legal assistance, and attending legal proceedings.</p> <p>For a summary of the bill's provisions regarding employment discrimination, see H.R. 3185 above.</p>	<p>Introduced on June 30, 2005 and referred to the House Education and the Workforce, the House Financial Services, and the House Ways and Means Committees.</p>
<p>Violence Against Women Act of 2005</p> <p>S. 1197 Biden (D-DE)</p>	<p><i>Domestic violence leave.</i> Requires employers of 50 or more employees to allow up to 10 days of unpaid leave in any 12-month period (including on an intermittent or reduced leave schedule basis) for victims of domestic or sexual violence, so that they may seek medical, legal or emergency housing aid. Employees taking such leave would be entitled to return to their same position or an equivalent position with the same benefits, salary and other terms and conditions of employment. While the bill does not amend the FMLA, its notice and certification requirements are similar to those required under the FMLA.</p>	<p>Introduced on June 8, 2005 and referred to the Senate Judiciary Committee.</p> <p>Similar legislation in the House (H.R. 2876) would permit up to 15 days leave over a 12-month period.</p>
<p>Bankruptcy Abuse Prevention and Consumer Protection Act of 2005</p> <p>S. 256 Grassley (R-IA)</p> <p>H.R. 685 Sensenbrenner (R-WI)</p> <p>Public Law 109-8</p>	<p><i>Bankruptcy.</i> Limits the amount of, and circumstances under which, retention bonuses and severance payments may be made to officers and management level employees of companies that have filed for bankruptcy. Retention bonuses, within defined limits, could only be paid to a person whose services are essential to the survival of the business, and who has a bona fide job offer from another business at the same or greater rate of compensation. Severance payments would need to be within defined limits, and must be part of a program that is generally applicable to all full-time employees.</p> <p>Would also expand permissible administrative expenses payable by a company in bankruptcy to include certain wages and benefits awarded as back pay resulting from a debtor employer's violation of law, if the court determined that the award will not substantially increase the probability of layoff or termination of current employees or nonpayment of domestic support obligations during the case.</p> <p>[See the H&W and Retirement LTCs for a summary of the bill's health benefit and retirement-related provisions.]</p>	<p>President Bush signed S. 256 into law on April 20, 2005. It is now Public Law 109-8.</p> <p>Before Senate passage of the bill, the Senate rejected two competing amendments to S. 256 that would have raised the minimum wage. The first amendment, offered by Sen. Kennedy (D-MA), would have increased the minimum wage from \$5.15 an hour to \$7.25. The second amendment, offered by Sen. Santorum (R-PA), would have increased the minimum wage to \$6.25.</p>

Other Human Resource Bills

Bill	Summary	Status
<p>Class Action Fairness Act of 2005</p> <p>S. 5 Grassley (R-IA)</p> <p>Public Law 109-2</p>	<p><i>Class action reform.</i> Creates federal jurisdiction over class action lawsuits when the total amount in dispute exceeds \$5 million and when any plaintiff lives in a state different from that of any defendant.</p> <p>Attempts to exempt from S. 5 class actions based on state wage-hour and employment discrimination claims failed in both the House and Senate. As a result, the bill will make it potentially more difficult for employees to prevail in such lawsuits because of strict federal rules for class certification.</p>	<p>President Bush signed S. 5 on February 18, 2005. It is now Public Law 109-2.</p>
<p>Help Our Patriotic Employers at Helping Our Military Employees Act</p> <p>“HOPE at HOME Act “</p> <p>H.R. 838 Lantos (D-CA)</p>	<p><i>Business tax credit.</i> Provides a tax credit to small employers that provide wage differential payments to employees called to active duty in the National Guard or Reserves. The annual tax credit is equal to the lesser of 50% of the actual compensation paid, or \$30,000 per employee. The bill also would provide tax exempt employers, and state and local government employers, a credit for compensation, within defined limits, paid to employees on active duty in the National Guard or Reserves.</p>	<p>H.R. 838 was introduced on February 16, 2005 and referred to the House Government Reform and the House Ways and Means Committees. The budget resolution (S. Con. Res. 18) reserves a portion of the federal budget to fund the HOPE at HOME Act.</p> <p>Similar legislation (S. 1142) was introduced in the Senate on May 26, 2005.</p>
<p>H.R. 446 Billirakis (R-FL)</p>	<p><i>Business tax credit.</i> Provides employers a tax credit equal to 50% of the amount of compensation paid or incurred by an employer with respect to an employee on any work day during a taxable year when the employee was absent from employment for the purposes of performing qualified active duty in the Reserves or the National Guard. The credit is limited to \$2,000 per year per employee.</p>	<p>Introduced on February 1, 2005 and referred to the House Ways and Means Committee.</p>
<p>H.R. 443 Billirakis (R-FL)</p>	<p><i>Business tax credit.</i> Provides employers a tax credit for the value of service not performed during the period employees are performing qualified active duty as members of the Reserves or the National Guard. The credit is equal to 10% of the employee's unpaid compensation amount for the taxable year, and the credit is limited to \$2,000 per year per employee.</p>	<p>Introduced on February 1, 2005 and referred to the House Ways and Means Committee.</p>
<p>Standing with Our Troops Act of 2005</p> <p>S. 11 Levin (D-MI)</p>	<p><i>Reservists' pay.</i> Clarifies that amounts paid to employees while on active military duty for more than 30 days to make up the difference between their military pay and regular pay are subject to federal income tax withholding and are tax deductible by the employer.</p> <p>[See the Retirement and H&W LTCs for the bill's pension and health benefit-related provisions.]</p>	<p>Introduced on January 24, 2005 and referred to the Senate Finance Committee.</p>

Other Human Resource Bills

Bill	Summary	Status
H.R. 19 Calvert (R-CA)	<i>Employment verification.</i> Requires employers to verify the immigration status of new employees by matching the name and S.S. number provided by the employee on the Employment Eligibility Verification (I-9) form. Employers would be provided with software, training, and access to government databases to determine if new employees' worker-documentation is valid. The bill would initially apply to employers with more than 10,000 employees, and would be phased in over seven years to eventually apply to employers of all sizes.	Introduced on January 4, 2005 and referred to the House Education and the Workforce, and the House Judiciary Committees