

Good afternoon,

I thought you might be interested in this proposal currently moving pretty quickly at the federal Congressional level.

If you haven't already heard, last Friday, the House passed H.R. 6201, Families First Coronavirus Response Act. This resolution is currently in the Senate for consideration. There are three major portions of the Act - Emergency Family and Medical Leave Expansion Act, Emergency Paid Sick Leave Act and Tax Credits for Paid Sick and Expanded Family and Medical Leave. I have attached the entire resolution for your reading review. I apologize for the large 124-page attachment but there is a lot in this document and it is very important that you are aware of what is being proposed.

I've also attached a recent document from the Ways and Means committee which might be somewhat clearer. Please know that this is changing by the hour!

I highly recommend review of this document at your earliest convenience. If you thought the FMLA was challenging, the elements included in this Act will make your head spin. The Act adds paid sick leave and extends the FMLA, adds many other reasons for the use of FML, and changes to employee benefits. I will try to give you a brief, not all inclusive, summary of what is included in the Act.

Please do not take my summary as total fact; it is primarily based on my reading and understanding of what they are saying and the intent of the Act. Furthermore, it is very possible and very likely that the Senate will make changes and amendments to the resolution.

Paid leave has been proposed a few times over the past few years and not made it through the Senate. Since this is related to the coronavirus response, this may or may not cause them to take a different look.

In summary, it appears the Act includes:

- Expanded paid job-protected FMLA leave after the first 14 days. For those first 14 days, employees may use accrued personal or sick leave, but cannot be required to do so.
- The leave benefit goes into effect after an employee has worked for the employer for 30 calendar days or approximately one month.
- It expands the definition of a parent and family member to include in-laws and domestic partners, grandparents, grandchildren and others.
- This is short-term legislation – it will go into effect 15 days after it is enacted and expire December 31st, 2020.
- The law does not preempt state or local sick leave, meaning that whatever is most generous prevails.
- Employers must post notice of employees' rights under this law.

The bill specifically calls out its use for COVID-19.

- The employee may use the leave for COVID-19 requirements or recommendations, the care of a family member based on their requirements or recommendations, or for a child whose school has shut down.
- Employers must pay for the first two weeks of sick leave. Part-time employees are entitled to the average number of hours they work in a two-week period.
- The sick leave must be paid at an employee's regular rate of pay.

- After these two weeks, if the employee must continue to remain at home for COVID-19 reasons, the employer need only pay two-thirds of the employee's pay.

In addition to the Families First Coronavirus Response Act, the IRS provides a credit to employers to reimburse 100% of the qualified sick leave wages as a credit against Employer Social Security Tax.

There are a lot of interactions between the proposed new benefits and the employer's current existing benefits packages; some overlap, some don't. There are also provisions for which employers may be able to recover sick leave and qualified family leave wages but this varies based on the type of your organization, private or public.

Again, please be aware that depending on what actions the Senate takes and any amendments, this could significantly change.

FYI.

Please be safe and stay healthy.

Thanks

John

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