



The Ohio SHRM State Council

Monthly Legislative Report



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Table of Contents

Top HR News in Ohio 2-4
Fast Moving Legislation 5-6





TOP HR NEWS IN OHIO

Bills Affecting HR Pass before Summer Recess: Busy Post-Election Session Expected

The General Assembly sent 33 bills to the governor during the last week of legislative activity before adjourning for the summer recess. Some of them are expected to positively impact issues affecting the human resources profession. The legislative changes include consolidation of education and workforce training resources, reforming Ohio's workers' compensation system and enactment of a health care mandate. While several bills passed before the recess, additional legislation affecting HR professionals could be acted upon before end of the year.

Workforce Development

For decades, education and workforce development training programs have largely operated independent of one another. Coordination of such programs is long overdue. These programs provide workers with marketable skills as well as training, education or experience that employers are looking for when filling existing or future positions. One bill, [HB 486](#), sponsored by Rep. Nan Baker (R-Westlake) and Rep. Gerald Stebelton (R-Lancaster), seeks to address these issues with Ohio's education and workforce development systems.

[HB 486](#) requires coordination and collaboration among Ohio's three major workforce development programs - Adult Basic Literacy Education (ABLE), the Carl Perkins career technical program, and the Workforce Investment Act (WIA). The state agencies that oversee these programs - Ohio Board of Regents, Department of Education and Department of Job and Family Services - are directed to work with the Governor's Office of Workforce Transformation (OWT) to create a single state workforce plan for a waiver from certain federal requirements. The bill also requires the OWT to review the remaining 88 workforce-related programs and organize them into a comprehensive structure.

Workers' Compensation

[HB 493](#), sponsored by Rep. Barbara Sears (R-Monclova Township) and Rep. Michael Henne (R-Clayton), implements the Bureau of Workers' Compensation's (BWC) transition from a retrospective payment system to a prospective payment system. In addition, the bill permits BWC to contract with a private insurer to offer both full and limited-line coverage products as options for businesses that cannot afford to purchase a separate "all states" policy outside of Ohio. The bill was signed by Governor Kasich on June 16, 2014. As with other insurance products, this change will require employers to pay premium payments in advance rather than in arrears. This change will occur at the end of the last retrospective premium payment period, but all Ohio employers will receive a credit equal to the final payment, therefore eliminating the cost of such a transition.

At the June Board of Directors meeting, the Ohio Bureau of Workers' Compensation (BWC) Board of Directors made official another 6.3 percent, \$91 million rate cut in FY15, bringing four-year savings for private employers to \$409 million, according to the bureau. BWC also reported an \$8.481 Billion surplus due to administrative efficiencies and sound investment returns. The strong financial position of BWC and the changes in [HB 493](#) permit BWC to provide all employers with the prospective payment transition credit, pass fewer mutualized costs caused by non-payers along to all employers, and enable another premium rate cut in the near future.

Health Care

There were six bills containing health care mandates introduced this legislative session. One mandate was removed from a bill, and four of the other five are pending in legislative committees. One bill, [SB 99](#), sponsored by Sen. Scott Oelslager (R-Canton) and Sen. Charleta Tavares (D-Columbus), was signed by Governor John Kasich on June 17, 2014. The bill mandates "cost parity" for oral and intravenous chemotherapy treatments and how much consumers must pay for orally administered cancer medications. The bill limits the patient's portion of these costs and shifts the remaining costs to employers and other health insurance purchasers through higher health insurance premiums. A primary concern in the business community is that health care mandates, while well intended, typically increase the cost of health insurance and limit the flexibility in plan design that employers rely upon to help control health care costs.



TOP HR NEWS IN OHIO

Issues Still on the Table

As if the requirements under the Americans with Disabilities Act (ADA) were not complicated enough, plaintiff attorneys have developed a practice of driving by businesses in search of potential violations then threatening the property owner with a lawsuit in hopes of extracting a settlement. [HB 333](#), sponsored by Rep. Michael Stinziano (D-Columbus), would require a disabled Ohioan wanting to allege an access violation to notify the property owner of the violation prior to a lawsuit being filed. The bill would put in jeopardy any attorney fees paid to the disabled Ohioan who would not first notify the company providing an opportunity to fix the problem. The bill was recommended for passage by the members of the House Judiciary Committee, but it is still awaiting a vote by the full House.

Employment Law

Ohio employers have been dealing with negative results of bad Ohio Supreme Court decisions and inconsistencies with federal employment laws for decades. There are several issues that remain unresolved including eliminating personal liability on managers/supervisors; simplifying the process and statute of limitations for filing discrimination/harassment claims; eliminating the judicially created “public policy” claim; streamlining the age discrimination process; addressing sexual orientation and gender identity discrimination statewide; and placing caps on compensatory and punitive damages similar to the limits that have been in place for federal claims since the Civil Rights Act of 1991 was enacted.

[HB 163](#), sponsored by Rep. Ross McGregor (R-Springfield) and Rep. Nickie Antonio (D-Lakewood), and companion bill [SB 125](#), sponsored by Sen. Frank LaRose (R-Copley) and Sen. Michael Skindell (D-Lakewood), prohibit discrimination based on sexual orientation or gender identity. While neither bill has seen legislative activity for over a year either bill could serve as a vehicle for addressing many of the employment issues previously mentioned.

On the legal front, the Ohio Supreme Court will have the opportunity to address liability on managers/supervisors before the end of the year. The case, Hauser v. City of Dayton, was taken-up by the Court late last year and the outcome of the decision could address or even reverse Genaro. If not, a legislative solution will be necessary to ensure employment discrimination law in Ohio is aligned with a majority of other states and federal law.

Unemployment Compensation

Ohio’s unemployment rate continued its fast drop, sinking to 5.7 percent in April – the lowest it has been since early 2008 – as the state added 12,600 jobs over the month. The unemployment rate was 6.1 percent in March. The national unemployment rate remained at 6.3 percent in May, despite the nation’s adding 217,000 new jobs over the month. According to figures released by the U.S. Bureau of Labor Statistics (BLS), the number of unemployed persons was unchanged during the month at 9.8 million.

Job creation and matching jobseekers with such positions will continue to strengthen our improving economy. One benefit is that fewer claimants unemployed reduces the amount of benefits paid out of the unemployment compensation trust fund. Consequently, more people employed creates more UI tax revenue being paid into the fund. This is particularly important since the UI loan balance is the third highest in the nation at \$1.381 Billion. Since the economic downturn in 2007, Ohio has been forced to borrow these funds from the federal unemployment account to pay UI benefits.

The state has made significant progress in repaying the outstanding loan balance and picking up the interest tab so employers are not hit with an even higher balance to repay. But, federal law states that, until this loan balance is paid in full, Ohio employers will pay an additional \$21 per employee each year to repay the loan. The minimum amount employers are required to pay in federal UI taxes is \$42 per employee with no outstanding loan. Since the state has carried a loan balance for the last six years, employers are paying \$105 per employee and face another \$21 add on in 2015.

[HB 329](#), sponsored by Rep. Dave Hall (R-Millersburg), would require the Director of Budget and Management to make



TOP HR NEWS IN OHIO

payments on the balance of amounts borrowed by the state from the federal government. While this bill may see activity in the fall, a more comprehensive unemployment compensation reform package would address the current loan balance and rebuild the UI Trust Fund to a position of strength to weather the next economic downturn.

Election 2014

In November, Ohio electors will have the opportunity to vote for all statewide officeholders, including Governor/Lt. Governor, Attorney General, Secretary of State, Auditor and Treasurer. In addition, all 99 seats in the Ohio House of Representatives, 17 of the 33 seats in the Ohio Senate, all 16 U.S. Congressional seats and 2 Ohio Supreme Court seats are up for grabs this year. The importance of being an educated voter and helping others make educated decisions cannot be overstated. Ensuring that leaders that understand and support human resource issues that affect your business and bottom line are elected needs to be a top priority for everyone in the HR industry over the next 4 months. You have the opportunity to be an educated voter and help educate your workforce. As with past elections a non-partisan Voter Guide will be made available for Ohio SHRM members prior to the election.

Primary Election Results

Hannah News released a preliminary list of the winners in the May 6 primary election. State Issue 1, Ohio Public Works Bonds, passed with 65 percent of the vote. Three incumbents lost their primaries: Representatives Peter Beck, Zack Milkovich and Peter Stautberg. Click [here](#) for the entire 2014 Candidate List.

Important Election Dates for the Remainder of 2014

August 6: Constitutional Amendments proposed by joint resolution of the GA filed with Secretary of State (90 days before the election)

October 6: Deadline for voter registration for Nov. 4 general election

November 4: General election day

Elections 2016

Both Cleveland and Columbus officially submitted bids to host the 2016 Democratic National Convention by the June 13 deadline. Both were among the 15 cities that the Democratic National Committee (DNC) invited to submit bids. The other cities include Atlanta, Chicago, Detroit, Indianapolis, Las Vegas, Miami, Nashville, New York, Orlando, Philadelphia, Phoenix, Pittsburgh and Salt Lake City. Cleveland continues to be in the running to also host the 2016 Republican National Convention.

Transportation

The Ohio Department of Transportation (ODOT) has created an online tool asking Ohioans to provide input on their priorities regarding their local transit systems. ODOT said the survey lets users decide what the priorities should be -- and matches those with the dollars it takes to deliver them, the agency said. The survey also illustrates the community benefits based on how funds are spent, which aims to help users understand the trade-offs that decision makers must face as they invest in transit systems. It is available at <http://www.ohiotransitsurvey.com/>. Click "Proceed to Next Page" to be guided to the corresponding Ohio Transit Survey.

New Legislation

HB539 (Workers' Compensation Claims)

Representative Michael Henne introduced HB539 on May 14, 2014. The bill seeks to defer the charging of workers' compensation claims to an employer's experience when a third party may be liable for the claim and to create the Subrogation Suspense Account within the State Insurance Fund to which any such deferral will be charged.



FAST MOVING LEGISLATION

Employment Law

HB253 PAYCHECK CARD (ROGERS J) To prohibit certain employers from requiring employees to accept the employees' pay in the form of a paycheck card.
Current Status: 5/7/2014 - House Commerce, Labor and Technology, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_253

HB347 EMPLOYEE DEFINITION (PHILLIPS D, DRIEHAUS D) To create a generally uniform definition of employee for specified labor laws and to create a uniform standard to determine whether an individual performing services for an employer is an employee of that employer.
Current Status: 6/4/2014 - House Commerce, Labor and Technology, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_347

Healthcare

HB117 CAPTIVE INSURANCE COMPANIES (HACKETT R, STINZIANO M) To provide for the operation of captive insurance companies in Ohio.
Current Status: 6/11/2014 - Sent to Governor for Signature
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_117

Labor Relations

HB502 MINIMUM WAGE INCREASE (FOLEY M, HAGAN R) To increase the state minimum wage to ten dollars and ten cents an hour beginning January 1, 2015.
Current Status: 5/14/2014 - House Commerce, Labor and Technology, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_502

Taxation

HB230 TAX CREDIT-FOOD DONATIONS (GROSSMAN C, ANIELSKI M) To authorize an income tax or commercial activity tax credit for businesses that donate food inventory to charitable organizations.
Current Status: 5/21/2014 - House Ways and Means, (Second Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_230

Workers' Compensation

HB493 MBR-WORKERS' COMPENSATION (SEARS B, HENNE M) To make changes to Ohio's Workers' Compensation Law and to make an appropriation.
Current Status: 6/11/2014 - Sent to Governor for Signature
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_493

HB539 WORKERS' COMPENSATION CLAIMS (HENNE M) To defer the charging of workers' compensation claims to an employer's experience when a third party may be liable for the claim and to create the Subrogation Suspense Account within the State Insurance Fund to which any such deferral will be charged.
Current Status: 6/3/2014 - House Insurance, (First Hearing)
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_539



FAST MOVING LEGISLATION

Workforce Development

HB486 WORKERS' COMPENSATION-MEDICAID ELIGIBILITY STUDY COMMITTEE (SEARS B, HENNE M) To create the Workers' Compensation and Medicaid Eligibility Study Committee.
Current Status: 6/16/2014 - Sent to Governor for Signature
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_486

Enacted Legislation

HB107 CAREER EXPLORATION INTERNSHIPS-TAX CREDIT (BAKER N) To authorize a tax credit for businesses that employ high school students in career exploration internships.
Current Status: 3/26/2014 - SIGNED BY GOVERNOR
State Bill Page: http://www.legislature.state.oh.us/bills.cfm?ID=130_HB_107