

The \$2 Trillion Federal CARES Act: Employment Law Changes

Friday, March 27, 2020

The Coronavirus Aid, Relief, and Economic Security Act ("[CARES Act](#)") is a comprehensive economic relief plan designed to stabilize and uplift the American economy during the COVID-19 pandemic. It is unique not only because of the total amount of funding made available (over \$2 trillion), but also because of the breadth of industries, sectors, and individuals eligible to receive some form of federal grant aid or federally-backed loan assistance through the stimulus legislation.

This alert summarizes key changes to employment laws in specific

Key Changes in Employment Laws

While the biggest headline items and biggest monetary outlays involve direct government aid to workers, the Act also greatly expands unemployment benefits and creates new benefits and obligations for employers. These changes can be found below:

Changes in Unemployment Benefits

Augmenting Traditional Unemployment Benefits: The federal government will fund increases in both the duration and amount of traditional state unemployment benefits. States that choose to begin paying benefits immediately, instead of waiting one week, will see their costs for doing so reimbursed. The federal government will also provide an additional 13 weeks of benefits after state benefits would otherwise expire. State benefits will be augmented by an additional \$600 per week of federal money.

Support for Short-Term Compensation Programs: States with existing short-term compensation programs (where employees who see their hours reduced, but do not lose their employment, receive pro-rated unemployment benefits) will see benefits paid out under such programs reimbursed fully by the federal government. States without such programs may establish them and receive full compensation for benefits paid. Alternatively, states that do not establish such programs in law may enter into agreements under which the state will temporarily pay short-term compensation benefits and receive 50% reimbursement from the federal government.

Help for Non-Traditional Employees: For "gig workers," independent contractors, the self-employed, and others not eligible for traditional unemployment benefits, the Act creates a new

Pandemic Unemployment Assistance program to provide benefits on the same terms. Like existing state unemployment benefits, Pandemic Unemployment Assistance benefits will be augmented by \$600 per week from the federal government.

For Employers

Payroll Tax Relief: Payroll tax relief is provided for employers on both the employer and employee share of payroll taxes. The employer's share of payroll taxes can be deferred through 2020 and paid in 2021 and 2022. The employee's share of payroll taxes on the first \$10,000 of wages will be returned in a payroll tax credit to employers who are fully or partially shut down as a result of a government order or, alternatively, suffer a 50% drop in quarterly gross receipts versus the same calendar quarter in the prior year. For businesses employing 100 or fewer people, this credit applies to wages paid to any employees; for businesses over 100 employees, to wages paid to employees not working.

Benefits: As part of the \$5,250 in tax-free educational assistance benefits employers may provide to employees under current law, employers may now provide as a tax-free benefit student loan repayment assistance.

Paid Sick Leave and FMLA Clarifications: The Act modifies the new paid sick leave requirements of the Family First Coronavirus Response Act ("FFCRA") passed last week. Under the FFCRA, paid sick leave was capped at \$511 per day (\$5,110 aggregate) for workers who are quarantined or showing signs of COVID-19 and \$200 per day (\$2,000 aggregate) for workers who are taking time off to care for a sick family member or a child at home due to a school closure. The CARES Act retains these numbers but, instead of prohibiting higher rates entirely, provides that employers will not be required to pay higher rates. The CARES Act also clarifies that the paid FMLA benefits provided for by the FFCRA must be extended to employees who were laid off after March 1, 2020 but subsequently rehired (provided that they had been employed for more than 30 days prior to being laid off).

Foley Hoag has formed a firm-wide, multi-disciplinary [task force](#) dedicated to client matters related to the novel coronavirus (COVID-19). For more guidance on your COVID-19 issues, visit our [Resource Page](#) or contact your Foley Hoag attorney. For guidance on CARES Act issues, please contact Tad Heuer, Colin Zick, or Christopher Feudo.