



# Stormy Weather or Calm Seas? A Legislative Forecast for HR Professionals

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You Can Make The Difference  
HR Tampa Expo 2009

# What Can We Expect?

- Areas of Potential Change
  - Discrimination Laws
  - Leave Laws
  - IRS and Savings
  - Pay Issues
  - Labor Laws
  - Veterans' Rights
  - Plant Closings
  - Workplace Safety



# What Else Can We Expect?

- Not Limited to Passing New Laws
  - Executive Orders
  - Government Rulemaking
  - Change in Legal Interpretations



# Discrimination

- Employee Non-Discrimination Act
  - Sexual Orientation Discrimination
  - 20 States & District of Columbia Prohibit
  - Already passed house in 2008
- SHRM Supports
  - Public Policy of Eliminating Discrimination
  - Voluntary Domestic Partner Benefits

# Discrimination Continued

- EEOC Rulemaking
  - Genetic Information Nondiscrimination
    - Currently Under Review
  - ADA Amendments Act
    - EEOC's Comments at Public Meetings Raises Concerns over issue of "working" as a Major Life Activity
  - ADEA Disparate Impact
    - *Smith v. City of Jackson & Meacham v. Knolls Atomic Power Laboratories*

# LEAVE LAWS

## ■ **Healthy Families Act**

- Mandated Paid Sick Leave
- President Obama Supported During Campaign
- Senator Kennedy's priority

## ■ **SHRM's Position**

- Opposes Government Mandate on Leave or Benefits
- One-Size Fits All Approach

# LEAVE LAWS

- Expanding FMLA
  - Family & Medical Leave Inclusion Act
  - Include Leave For
    - Same-Sex Spouses
    - Domestic Partners
    - Parent-In-Law
    - Grandparents
  - SHRM's Position
    - Follow Intent of Original Law

# Immigration

- Nothing New Projected
  - SHRM Does Not Anticipate Any New Immigration Legislation in the 111<sup>th</sup> Congress
  - The IRS May Have Something to Say
    - Audits of H-1B Sponsors
    - Look for Information re: Accounting for and Compensating Foreign Persons
    - Examine Employee Classifications

# E-Verify

- Federal Contractors - \$100K/120 Days
- Subcontractors - \$3K
- Must Verify All New Hires & Existing Employees Are Eligible
- Contracts Issued or Renewed on September 8, 2009
- Enroll in E-Verify 30 Days
- Comply – 90 Days

# HR & The IRS

- Retirement Savings
  - Presidential Weekly Radio Address
  - Make It Easier to Save for Retirement
    - Convert Unused PTO to Retirement Savings
    - Automatic 401(k) Enrollment
    - Ability to Purchase Savings Bonds With Tax Refunds
  - Currently has Bipartisan Support

# HR & The IRS

- Worker Misclassification
  - Government Accountability Office Study
  - 2007 States Uncovered 150,000 Misclassified Workers
  - Loss of Tax Revenue
  - IRS Allowed to Share Information With Individual States

# Pay Issues

- Paycheck Fairness Act
  - Removed From Ledbetter Fair Pay
  - Expand Protection of EPA
  - Increase Penalties for Unfair Pay
  - Limit Affirmative Defenses
  - Retaliation Protection
  - Class Certification

# Labor Law

- Employee Free Choice Act
  - Card Check
  - Increased ULP Penalties
  - Mandatory Arbitration
  - Congress to Likely Address - 2010

# NLRB

- New Appointees
  - Pending Nominations Include
    - SEIU Associate General Counsel
    - Called for Removal of Employer in Elections
  - Significantly More Pro-Union
  - Anticipated Changes in Board Law & Policy

# NLRA

- Executive Orders and Rulemaking
  - Roll Back of Union Financial Disclosures
  - Project Labor Agreements
  - Notice of Employee Rights

# NLRA

- Anticipated Rulemaking
  - Non-Reimbursement of Labor Relations Costs
  - Non-Displacement of Qualified Workers Under Service Contract Act
  - Roll Back of Union Officer & Employee Financial Disclosure Regulations

# VETERANS

- Wounded Veteran Job Security Act
- Expands USERRA
  - Prohibit Discrimination Against Service Members Who Receive Medical Treatment Related to Service Injuries
  - Access USERRA Leave Prior to Exhausting PTO
  - Good Chance of Becoming Law



# LAYOFFS & CLOSINGS

- Forewarn Act
  - Expands WARN Act
  - Lengthen Advanced Written Notice to 90 Days
  - Triggered When 75 or More Full or Part-Time Employees Are Affected
  - SHRM Opposes, But Similar Bill Passed House in 2008

# OSHA

- Protecting America's Workers Act
  - Expands OSHA
  - Increase Whistleblower Protections
  - Increase Criminal Penalties for Employers
  - Employees/Unions Contest Settlements Between OSHA & Employer
  - Considered in 2010

# OSHA

- Worker Protection Against Combustible Dust Explosions and Fires Act of 2009
  - Require the Secretary of Labor to Promulgate Combustible Dust Standards
  - Similar Bill Already Passed in the House
  - “Reasonable Chance” of Becoming Law in 2009

**Questions?**