

August 6, 2003

Governor Blagojevich Signs Into Law The First Of Many Employment-Related Changes In The Public Sector

As many of you are aware, there are several bills that have passed both houses of the General Assembly and that are awaiting signature by the Governor. We covered many of these bills at our seminar on July 17, 2003 and in our previous *Management Alert* issued on June 10, 2003. In bill signing ceremonies on August 4 and 5, Governor Blagojevich signed into law the following bills:

- ◆ **Union Recognition Based On “Card Checks” (H.B. 3396):** Signed into law on August 5 (without amendatory veto as we understand), this law requires both the Illinois Educational Labor Relations Board and Illinois Labor Relations Board to certify unions as exclusive bargaining representatives without a secret ballot election, contingent on the union’s ability to present independent evidence of majority support among bargaining unit employees. The bill suggests that a union can satisfy such a showing through the use of signed union dues deduction cards. *This bill takes effect upon becoming law.*
- ◆ **Fire Department Promotional Act (H.B. 988):** The Governor signed this complex law into effect on August 4, again as we understand, without any amendatory veto. The law makes numerous changes to the promotional process for firefighters as currently set forth in the Illinois Municipal Code and Fire Protection District Act through such measures as: a larger role for exclusive bargaining representatives in the promotional process, including the right to appoint “monitors” to oversee the process; elimination of the “rule of three”; an entitlement of each applicant to full participation at each stage of the testing process; and a requirement that any subjective component of a test (e.g., chief’s points) must be job-related and applied uniformly. Violations of the Act will be considered “official misconduct” by a public official. *This change takes effect upon becoming law.*
- ◆ **Jurisdiction Changes Under The Illinois Public Labor Relations Act (H.B. 336):** Signed into law on August 5, this law extends coverage to employers who once had more than 35 employees, but later dropped below the threshold after a union has previously been certified as an exclusive bargaining representative. *This law would take effect on January 1, 2004 under the Effective Date of Laws Act.*
- ◆ **Amendments to the Illinois Strikebreakers Act:** On July 24, the Governor signed into law this change prohibiting the ability of Illinois employers to utilize the services of a temporary day labor service agency as a way to replace striking or locked-out workers (S.B. 90). A companion bill was signed into law on August 5 that prohibits employers from using day or temporary laborers from an agency that is not pre-registered with the Illinois Department of Labor (H.B. 310). *Both of these laws would take effect on January 1, 2004 under the Effective Date of Laws Act.*
- ◆ **Military Leave of Absence Act (H.B. 3141):** Signed into law on August 4, this Act requires local governments and school districts to grant leave to employees, with salary continuation (the nature of which varies based on the type of leave), who are in the military reserve or national guard for any period actively spent in the military service, including basic training, special or advanced training and annual training and to provide certain benefits protections. *This change takes effect upon becoming law.*
- ◆ **Limitation on Inquiry into an Applicant’s Criminal Background (SB 788):** On July 18, the Governor signed into law a new provision to the Criminal Identification Act, 20 ILCS 2630/5, which specifically restricts how an employer may inquire into the criminal history of an applicant for employment. Under this new provision, applications for employment must contain specific language stating that the applicant is not obligated to disclose sealed or expunged records of conviction or arrest, nor may an employer ask an applicant if he or she has had records expunged or sealed. Illinois law already prohibits employers from inquiring into or to using the fact of an arrest or sealed, expunged or impounded criminal history record information in making employment decisions. Under this new law, though, employers will need to review their employment applications to ensure they comply with the additional notice requirements. Law enforcement agencies are exempted from this provision. *This law would take effect on January 1, 2004 under the Effective Date of Laws Act.*

If you have any questions or concerns relating to these changes, please contact your Seyfarth Shaw public sector attorney.