



POLICY MATTERS

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Olson Testifies on Paycheck Fairness. On Wednesday, February 13, Seyfarth Shaw's Camille A. Olson [testified](#) on the Paycheck Fairness Act (H.R. 7) at a [joint hearing](#) of the House Subcommittee on Civil Rights and Human Services and the Subcommittee on Workforce Protections. That bill, in summary, would radically amend the Equal Pay Act to virtually eliminate the ability of an employer to defend itself, even when legitimate job-related factors explain differences in pay; impose unlimited punitive and compensatory damages and expand class action rules to the benefit of the trial bar; and make numerous other changes to existing law. In addition to highlighting significant concerns with HR 7, Camille also [discussed](#) certain opportunities to enhance the current protections against wage discrimination. If there ever was a piece of legislation in which seemingly technical language hides numerous substantive changes that demanded a line-by-line analysis, it is this one. Seyfarth was invited by the House Republicans to provide that [analysis](#) and an expert perspective on how the bill would change current law and its practical impact on workplace practices and current litigation and class procedures under the Equal Pay Act. The other three witnesses on the panel provided blanket support for HR 7. Look to see the bill move through the House Committee on Education and Labor to the House floor in the next month, with passage assured, and then to the Senate where the outlook remains to be seen. We will stay deeply engaged on this issue. Numerous Seyfarth Shaw subject-matter experts provided significant analytical contributions to the testimony presented, including Annette Tyman, Co-Chair of Seyfarth's Pay Equity Group and Randel Johnson, Chair of Seyfarth's Government Relations and Policy Group.

Paid Leave—Another Proposal. In last week's newsletter, we noted the President's apparent support for some type of paid family leave program (with various versions possible) as mentioned in his State of the Union address, as well as the apparent interest by members on both side of the aisle in doing something in this area. On February 12, Rep. DeLauro (D-CT) and Sen. Gillibrand (D-NY) reintroduced the Family and Medical Insurance Leave Act (FAMILY Act). Although the text of the bill is not yet available, we believe it will be similar to past versions of the bill, which would permit workers to take up to 60 days of paid time off to care for themselves or a family member with a serious health condition. The bill would establish the "Federal Family and Medical Leave Insurance Trust Fund" and both the employer and employee would be taxed at 0.2% of wages to be paid into this fund. The legislation would also establish a new "Office of Paid Family and Medical Leave" within the Social Security Administration to administer the benefits. Stay tuned for further details but we have included a mention of this legislation here to again reiterate that this may be the Congress that sees some type of [bipartisan compromise](#) on paid family leave.

Government to be Funded; National Emergency to be Declared. After seemingly never-ending discussions, as we enter the final days of the current spending resolution (for most of the government, at least), the bipartisan, bicameral group of Congressional negotiators seems to have gotten the job done on the compromise that will fund the government through the end of this fiscal year. The Senate has already passed the measure, and the House is expected to do so later today. Earlier today, the President [tweeted](#) that he and his team were reviewing the bill, and Senate Majority Leader McConnell later [announced](#) that the President intends to sign the bill and declare a national emergency to fund the border barrier. The White House has [confirmed](#) Sen. McConnell's announcement.

Senate Republicans Seek to Break Nomination Logjam. With numerous Labor Department nominees continuing to languish in the Senate HELP Committee (along with many others in similar situations in other committees), the Senate Rules Committee [voted](#) to change Senate rules to reduce the number of hours of post-cloture debate from 30 hours to two hours (for most nominations). If approved, the rules change would dramatically increase the ability of the Senate to confirm the Trump Administration’s nominees. The committee vote was 10-9 along party lines, so expect a fierce fight on the Senate floor, including the possibility that Senate Republicans will use the parliamentary process to secure the change with a simple majority vote, rather than the usual supermajority necessary for rules changes.

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