

# POLICY MATTERS

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**EEO-1 Update.** The Department of Justice filed an appeal from the District Court's decision on May 3. DOJ, however, did not file a request for stay of the order and EEOC has made clear that the notice of appeal has no effect on the requirement that employers submit 2017 and 2018 EEO-1 Component 2 data by September 30, 2019. Of course, the appeal itself will not be resolved before the September 30 deadline. Employers, therefore, need to prepare to file the appropriate data by that date. As noted in prior newsletters, Seyfarth has long been involved in this issue, has conducted several webinars on compliance questions, and will continue to track developments.

**EEOC Chairman Confirmed.** On May 8, Janet Dhillon was [confirmed](#) by the Senate to the EEOC Commission where she will become chair, thus restoring a quorum to the Commission. Whether this means that the Commission will revisit the new EEO-1 form under the Paperwork Reduction Act remains to be seen, but it should be noted that the Court's deadline of September 30 is firm. For more on Dhillon's confirmation, see the [Workplace Class Action blog](#).

**Hearing Held on PRO Act.** Yesterday the House Subcommittee on Health, Employment, Labor and Pensions held a [hearing](#) on the "Protecting the Right to Organize Act of 2019", a.k.a. the "PRO Act." ([H.R. 2474](#)). The bill is incredibly broad (more so even than the Employee Free Choice Act-- a.k.a. "card check"--was in past Congresses). Among other things, the bill would codify the expansive joint employment standard established by the Obama NLRB in Browning-Ferris; eliminate the ability of employers to hire replacement workers during an economic strike (reversing the Supreme Court's 80-year-old Mackay doctrine); reverse the Supreme Court's recent Epic decision on class action arbitrations; create a new private cause of action allowing workers to sue when the Board does not take up the case; permit vastly expanded damages and civil penalties; effectively repeal state right-to-work laws by permitting "fair share" fees; expand the definitions of "supervisor" and "employee"; impose first contract interest arbitration; broadly repeal existing protections against secondary boycott actions, and allow card check recognition where a "violation" has occurred. This list is but the tip of the iceberg, as Education and Labor Committee Chair Bobby Scott's (D-VA) [press release](#) makes clear. Although the subcommittee's Ranking Member Tim Walberg (R-MI) expressed a [willingness](#) to work on pro-worker and pro-economy legislation, this particular bill is so extreme that its future is non-existent.

**House Appropriators Approve DOL Funding Bill.** Earlier this week, the House Appropriations Committee [approved](#) the Labor-HHS [spending bill for FY2020](#). The bill gives the Labor Department a \$1.2 billion increase from this year's enacted level. During the committee's [mark-up](#), it also approved an amendment from Rep. Harris (R-MD) that would direct the Secretary of Homeland Security to allocate H-2B visas quarterly (instead of twice per year). The bill heads next to the full House.

**Equality Act Expected on House Floor Soon.** The House Rules Committee [announced](#) that it was likely to meet next week to vote on the amendment process for the Equality Act (H.R. 5). As [previously reported](#), the bill has passed the House Judiciary Committee, and the Rules Committee action sets the bill up for consideration by the full House.

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