

# POLICY MATTERS

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The midterm elections are finally here, and it is clear that there is more on the line than simply control of Congress in January 2019. The parties' performance on Tuesday is expected to influence the agenda in the lame duck session, which is likely to address appropriations, immigration, and nominations, among other issues.

Join us next Thursday as Scott Reed, Senior Political Strategist for the U.S. Chamber of Commerce breaks down the election results and their impact on Congressional priorities in the lame duck and beyond.

[Register here](#) to attend in-person or via webinar.

**Employment Law on the State Ballots.** Midterms, of course, are not simply about control of Congress. A number of states have employment-related ballot initiatives, including measures on increasing minimum wage and legalizing marijuana. SHRM has more [here](#).

**House and Senate Democrats Introduce Bill to Prevent Arbitration of Employment Disputes.** With more than 50 co-sponsors, House Democrats introduced a bill that gives a glimpse of what employers may expect in the event that control of the House flips next week. The "Restoring Justice for Workers Act" would, among other things, prohibit predispute arbitration agreements that require arbitration of employment disputes. The bill's text is linked [here](#).

**EEOC Holds Hearing to "Revamp Workplace Culture to Prevent Harassment."** Continuing its efforts in the wake of the #MeToo movement, the EEOC held a public hearing during which employers and employees described approaches aimed at preventing harassment. According to Acting Chair Victoria Lipnic, leadership and accountability are critical to any effort to reform workplace culture, "set[ting] the tone and the expectation that harassment will not be tolerated in a workplace." The [EEOC's press release](#) has more details, and the full record (including video) will be available on the [commission's website](#) soon.

**NLRB Extends Comment Period on Joint Employment.** The NLRB has [granted](#) a 30-day extension to provide comments on its [proposed rulemaking](#) on joint employment. Comments are now due on December 13, 2018, with replies to those comments due on December 20, 2018. With the Department of Labor's proposed rule on joint employment also expected to be published in December, 2019 is shaping up to be quite a busy year for the joint employment debate.

**Comment Period for Cal/OSHA Emergency Regulation for Electronic Submission of CY17 Form 300A Is Open . . . and Closed.** Since our last issue, Cal/OSHA announced a new emergency regulation related to the submission of Form 300A for 2017. And the comment period has already closed. The expectation is that the rule will be adopted as final—on Monday. For details, check out the [Workplace Safety and Environmental Law Alert blog](#).

**DOL Updates H-1B Labor Condition Application and Worker Complaint Form.** Earlier this week, DOL [announced](#) changes to the LCA form that would require employers to provide more detailed information, including disclosure of all places of employment for H-1B workers; estimates of the number of H-1B workers at each place of intended employment; clear identification of secondary entities who are using H-1B workers; and documentation of any degree forming the sole basis of an exemption for H-1B dependent employer. DOL also announced changes to the complaint form. New forms will be made available for use “in the coming weeks.”

**White House Completes Review of H-2A and H-2B Proposals to Modernize Recruitment Requirements.** The Office of Information and Regulatory Affairs (OIRA) has concluded its review of DOL’s proposals to modernize recruitment requirements under the [H-2A](#) and [H-2B](#) programs. The next step is for DOL to publish the proposals for comment in the Federal Register.

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