

# POLICY MATTERS

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**(Not As Many) Elephants in the Room.** Of course, the big news in Washington is the Democratic takeover of the House of Representatives. The specifics of how the agenda will be implemented remain to be seen (e.g., are there areas for bipartisan/bicameral compromise and/or will there be efforts to push aggressive measures to “reward” certain constituencies despite likely failure in the Senate). On the labor and employment front, however, expect to see efforts on a minimum wage increase, a [ban](#) on employment arbitration, a paid sick leave entitlement, and broad (pro-union) [changes](#) to the National Labor Relations Act. And oversight. Lots and lots of oversight--letters, hearings, GAO investigations--on everything from regulatory proposals to subregulatory guidance to enforcement activities. In addition, there are likely to be efforts in the House to block Presidential initiatives through funding limitations in appropriations bills.

**That's Not All That's Changing.** Politico [reports](#) that the Democrats plan to change the name of the House Committee on Education and the Workforce to the House Committee on Education and Labor. The planned renaming is no surprise; the name has switched with each change in party control since 1995.

**How About the States?** With federal inactivity on a wide variety of issues--inactivity that is likely to grow with the gridlock brought on by a divided government--states increasingly have sought to step into the breach. In this week's elections, several states voted on employment-related ballot measures. For example, Arkansas and Missouri voters increased the state minimum wage. And a number of states voted on various measures related to the legalization of marijuana. For a rundown of the pot-related voting, see our coverage at [The Blunt Truth](#).

**Some New Opinions.** The Department of Labor's Wage & Hour Division continues to issue opinion letters. The most recent batch of letters reintroduce a [method of determining when an employee is working](#) “dual jobs” for the purposes of taking the tip credit; find that volunteer fire departments [do not qualify](#) for a partial overtime exemption for public agencies; discuss the [appropriate ratio](#) for the “reasonable relationship” analysis regarding salary and actual earnings under the FLSA's salary basis test; and [apply](#) the “amusement or recreational establishment” test to a company operating swimming pool facilities at various hotels and apartment buildings.

**Online Ads to Be Required.** Bringing aspects of the programs into the (early) 21st Century, the Department of Labor (along with the Department of Homeland Security) will publish in the Federal Register proposals for employers seeking temporary labor certifications through the [H-2B](#) and [H-2A](#) visa programs to advertise jobs online for at least 14 days. Currently, an employer advertising a job for which it seeks a temporary labor certification must publish two print advertisements in a newspaper of general circulation in the area of intended employment. The short comment period will end on December 10.

**What's Next?** It's a busy time here in D.C., as leadership roles and committee assignments shake out and Executive Branch agencies staff up to deal with the impending onslaught of oversight. And, as we've reported previously, the Trump Administration has its own agenda in the labor and employment world. Although that may be slowed somewhat by Congressional oversight, it's certainly not going away. We here at Policy Matters will be sure to keep you updated as events unfold. Stay tuned

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