

Weekly Digest

• July 27, 2021 •



Human Resources

E-Voting in Union Elections at the NLRB?

"As our two major political parties wage battle in statehouses around the country regarding the ways in which citizens cast their votes, the National Labor Relations Board (NLRB) seems primed to implement electronic voting ("e-voting") in union elections. E-voting has long been on Labor's wish list. As we transition out of a pandemic that significantly reduced the number of manual (read: in-person, onsite) representation elections, it appears that the Democratic-controlled Board and Congress are prepared to dedicate resources to add an e-voting system to the Board's manual and mail-ballot election processes." [Full Article](#)

Shawe Roesenthal



President Biden Signs Executive Order Directing Federal Agency to Take Action To Limit Employment Non-Competition Agreements

"On July 9, 2021, President Joseph Biden signed an expansive Executive Order that includes directives to consider federal regulations significantly limiting employment non-competition agreements. Although the Executive Order is not yet a regulation, it represents a first step, and directs the Federal Trade Commission ("FTC") to exercise its authority "to curtail the unfair use of non-compete clauses and other clauses or agreements that may unfairly limit worker mobility." [Full Article](#)

Morgan, Brown & Joy

In This Digest

PAGE 1

E-Voting in Union Elections at the NLRB?

By, Shawe Rosenthal

President Biden Signs Executive Order Directing Federal Agency to Take Action To Limit Employment Non-Competition Agreements

By, Morgan, Brown, & Joy

PAGE 2

Do You Have To Negotiate The Vaccine With Your Union?

By, Barnes & Thornburg

For Manufactures Struggling With Labor Shortage, Time to Review Background Check Processes

By, Jackson Lewis

DOL is Reviewing Overtime Pay Threshold

By, Hall Benefits Law

EEOC Locks onto Bostock: New Guidance on Sexual Orientation and Other Gender Issues

By, Bradley Arant

PAGE 3

State & International Compliance Updates

Do You Have to Negotiate The Vaccine With Your Union?

“COVID-19 vaccination efforts continue around the country, and many employers are mandating or otherwise encouraging their employees to get vaccinated. While courts, at least so far, generally have upheld an organization’s right to require the vaccine, employers with union-represented workforces face an additional legal nuance: collective bargaining. In fact, the Teamsters have just filed a federal lawsuit in Chicago against a union health fund – the TeamCare fund – challenging the fund’s mandate that its workers get vaccinated or face termination. The Teamsters represent workers at TeamCare.” [Full Article](#)

Barnes & Thornburg



For Manufacturers Struggling With Labor Shortage, Time to Review Background Check Process

“While some manufacturers are turning to automation as a solution to the labor shortage, other companies are grappling with the decision of whether to hire workers they may have traditionally excluded from manufacturing positions, such as workers with a history of criminal convictions or who test positive for medical or recreational marijuana use in states where it might still be permissible to do so.” [Full Article](#)

Jackson Lewis

DOL is Reviewing Overtime Pay Threshold

“During testimony before the House Committee on Education and Labor on June 9, 2021, Secretary of Labor Marty Walsh told lawmakers that the DOL is reviewing the current overtime pay threshold that he said is too low and should be subject to automatic and regular updates.” [Full Article](#)

Hall Benefits Law



EEOC Locks onto Bostck: New Guidance on Sexual Orientation and Other Gender Issues

“Now the EEOC — or more specifically the EEOC’s Chair Charlotte Burrows — has published guidance on what may constitute discrimination based on sexual orientation and/or gender identity. There is drama around whether Burrows sought the approval of the other members of the EEOC before issuing the guidance, whether the guidance exceeds the scope of Bostock, and whether the guidance violates employers’ and employees’ religious and speech protections. We will monitor any updates around the issues and let you if anything changes, but as of now we assume that this is the EEOC’s stance on the issues.” [Full Article](#)

Bradley Arant

STATE & INTERNATIONAL COMPLIANCE

CALIFORNIA



California Supreme Court Holds Break Premiums Must Account For Nondiscretionary Payments In Addition to the Hourly Rate of Pay

“In *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court held that premiums paid for missed meal, rest or recovery periods must include nondiscretionary pay, not just hourly wages. The decision applies retroactively and significantly alters how employers must calculate meal and rest break premiums.” [Full Article](#)

Akin Gump

ILLINOIS



Illinois Imposes New Restrictions on Employers Utilizing Non-Competition and Non-Solicitation Agreements

“The Illinois General Assembly recently passed amendments to the Illinois Freedom to Work Act (“IFWA”) which seek to significantly restrict Illinois employers in how they utilize non-competition and non-solicitation agreements with their employees.” [Full Article](#)

Masuda Funai

CONNECTICUT



Connecticut Allows Some Training Portability, Amends Law Barring Discriminatory Practices

“In its 2021 Session, the Connecticut General Assembly amended the Connecticut Fair Employment Practices Act (CFEPA), which prohibits discriminatory practices, and other related laws on sexual harassment training and affirmative action plans, among others provisions.” [Full Article](#)

Jackson Lewis

MAINE

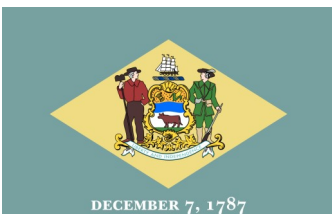


Maine Legislative Update: Back to Work Incentives, Ban the Box, Tip Minimum, and Other Developments Affecting Employers

“On The First Special Session of the 130th Maine Legislature ended on July 19, 2021 with a flurry of votes on pending bills. Many of the newly-enacted laws, which were adopted with little debate, will significantly impact almost all employers in the Pine Tree state.” [Full Article](#)

Littler Mendelson

DELAWARE



Delaware Set to Increase Minimum Wage to \$15 by 2025

“On July 19, 2021, Delaware Governor John Carney signed legislation that will gradually increase the state’s minimum wage to \$15 per hour by 2025. This is a substantial increase from Delaware’s current minimum wage of \$9.25 per hour. The minimum wage requirements apply to all employers who employ individuals in the state.” [Full Article](#)

Epstein Becker Green

Simplify Compliance