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2019 WORKPLACE LEGISLATION

E-Verify

SB 164 & HB 89- E-Verify [Sen. Bean- Nassau/Duval- Dist. 4 and Reps. Fitzhagen-Lee-Dist. 78; Sabatini- Sumter/Lake-Dist. 32; and Siriois- Brevard- 51]

Verification of Employment Eligibility- Requires employers to register with & use E-Verify system to verify employment eligibility of new employees; suspends employer licenses until registration with E-Verify system; provides for license reinstatement; prohibits employer from knowingly employing unauthorized alien; authorizes complaint to be filed with DEO; provides specified immunity; requires DEO to maintain public database containing certain information & make such information available on its website; authorizes injunctive relief; provides private cause of action & remedies; requires public employers, contractors, & subcontractors to register with & use E-Verify system for specified purposes; prohibits such entities from entering into contract unless each party to contract registers with & uses E-Verify system; authorizes termination of contract; authorizes challenge to such termination.

Actions: (SB) 12/18/18 Filed; 1/10/19 Referred to Judiciary, Commerce and Tourism, Appropriations (HB) 12/11/18 Filed; 1/3/19 Referred to Workforce Development and Tourism, Transportation and Commerce

HR Florida's Position: While HR Florida agrees that only authorized individuals should be employed, this legislation creates additional causes of action against employers that go beyond the hiring of unauthorized aliens. Additionally, the legislation provides for additional complaints against employer and requires actions that are duplicative of US Code. HR Florida opposes this bill.

Criminal Background

SB 394- Criminal History Records in Applications [Sen. Farmer- Broward- Dist. 34]

Criminal History Records in Applications- Prohibiting a public employer from inquiring into or considering an applicant's criminal history on an initial employment application unless required to do so by law; prohibiting public postsecondary educational institutions from inquiring into or considering the criminal history of an applicant seeking admission, etc.

Actions: 1/18/19 Filed; 2/1/19 Referred to Gov. Oversight and Accountability

HR Florida's Position: HR Florida encourages the consideration of persons with a criminal background for employment and appreciates the Florida Senate's continued refinement of this legislation. HR Florida supports this legislation as it takes a measured approach to this subject.

SB 946- Background Screening [Sen. Powell- Palm Beach- Dist. 30]

Background Screening; Prohibiting employers from excluding applicants from an initial interview for employment under certain conditions; requiring the Department of Economic Opportunity to enforce the act, etc.

Actions: 2/11/19 Filed

HR Florida's Position: HR Florida opposes this legislation as it provides for additional penalties against employers. Additionally, subsection (3) of the proposed legislation contradicts subsection (2)(c).

Discrimination/Harassment

SBs 430 and 438 & HB 485- Prohibited Discrimination [Sens. Rouson-Hillsborough/Pinellas- Dist. 19, Gruters- Sarasota/Charlotte- Dist. 23, Berman-Palm Beach- Dist. 31, Pizzo- Miami-Dade- Dist. 38 and Reps. Eskamani-Orange- Dist. 47; Good-Sarasota- Dist. 72 ; Hattersley- Brandon/Riverview- Dist. 59; Mercado –Orange- Dist. 48; Smith, C. –Orange- Dist. 49; Valdes- Hillsborough- Dist. 62]

“Florida Competitive Workforce Act” and “Florida Inclusive Workforce Act”- adding sexual orientation and gender identity as impermissible grounds for discrimination in public lodging establishments and public food service establishments; providing an exception for constitutionally protected free exercise of religion; revising the purposes of the Florida Civil Rights Act of 1992 to conform to changes made by the act.

Actions: 1/22/19 Filed; 2/1/19- Referred to Gov. Oversight and Accountability

HR Florida's Position: HR Florida does not oppose this legislation. While it provides for additional causes of action in the FCRA, it resolves the patchwork of protected classes of employees employers are currently facing and provides for a specific definition for the two additional classes of employees.

SBs 474 & HB 419- Discrimination in Labor and Employment [Sens. Stewart- Orange-Dist. 13 and Berman Palm Beach- Dist. 31 and Rep. Joseph- St. Lucie- Dist. 84]

Discrimination in Labor and Employment; “Helen Gordon Davis Fair Pay Protection Act”- Prohibits employer from providing less favorable employment opportunities to employees based on sex, with exceptions; provides affirmative defense; provides civil penalties; provides exemption for minority business enterprises; prohibits employer from taking certain employment actions against employees; prohibits employer from engaging in certain activities relating to employee wages & benefits or requiring employees to sign certain waivers & documents; authorizes employer to confirm wage or salary history under certain conditions.

Actions: 1/22/19 Filed in House; 1/24/19 Filed in Senate; 2/8/19 Referred to Commerce and Tourism

HR Florida’s Position: HR Florida supports legislation promoting equal pay and including gender identity. HR Florida is concerned, however, that the proposed bill implicitly creates a private cause of action. Further, we are concerned about the limitations placed on an employer’s ability to use information from inquiries as to prior wage history; as such information is often valuable in the hiring process.

SB 776 and HB 665- Sexual Misconduct Reporting in Health Care [Sen. Baxley- Lake Marion/Sumter- Dist. 12 and Rep. Stone- Levy/Marion- Dist. 22]

Requiring specified health care facilities, as a condition of obtaining or maintaining licensure, to enact policies requiring employees, contractors, volunteers, and interns of such licensees to report actual or suspected sexual misconduct involving a patient to the licensee, the Department of Children and Families, and the appropriate local law enforcement agency, etc.

Actions: 2/6/19 Filed; Referred to Criminal Justice; On Committee Agenda – Criminal Justice

HR Florida’s Position: HR Florida opposes this legislation as it duplicates reporting requirements already in place and places an undue burden on volunteers, students and interns to report to multiple agencies rather than to appropriate personnel within the employer.

SB 866- Workplace Sexual Harassment and Sexual Assault [Sen. Berman- Palm Beach-Dist. 31]

Workplace Sexual Harassment and Sexual Assault; Prohibiting an employer from requiring an employee to sign a nondisclosure agreement, waiver, or other document, as a condition of employment, to prevent the employee from disclosing sexual harassment or sexual assault; prohibiting an employer from discharging or retaliating against an employee for disclosing or discussing workplace sexual harassment or sexual assault, etc.

Actions: 2/7/19 Filed; Referred to Commerce and Tourism

HR Florida’s Position: HR Florida opposes this legislation as it creates an additional cause of action against the employer regardless of how an alleged incident of workplace sexual harassment or assault is investigated or the outcome of such investigation. HR Florida is also concerned about the language in the bill as it may nullify all portions of an otherwise acceptable non-disclosure agreement and/or arbitration agreements.

SB 1580 & HB 417- Workplace Sexual Assault [Sen. Book- Broward- Dist. 32 and Rep. Eskamani- Orange- Dist. 47]

Requires Florida Commission on Human Relations to create & publish model sexual harassment prevention policy & model sexual harassment prevention training program; requires employers to use model policy & program.

Actions: 1/22/19 Filed; 1/30/19 Referred to Business and Professions

HR Florida's Position: While HR Florida promotes the prevention of sexual harassment and encourages training to prevent occurrences, this legislation would mandate policy creation and required training for all employers covered by the Florida Civil Rights Act. We opposed legislation that provides for mandated policies and training for employers without consideration of company size or policies already enacted by employers.

Minimum Wage

SB 432- Employment Conditions [Sen. Gruters- Sarasota/Charlotte- Dist. 23]

Employment Conditions- Prohibiting a political subdivision from establishing, mandating, or otherwise requiring an employer to offer conditions of employment not otherwise required by state or federal law; specifying that certain requirements related to minimum wage and other conditions of employment are expressly preempted to the state.

Actions: 1/23/19 Filed; 2/1/19 Referred to Gov Oversight and Accountability

HR Florida's Position: HR Florida supports this legislation as it eliminates the complexities of managing an organization in multiple jurisdictions by disallowing cities, counties and other municipalities from created locally mandated conditions of employment.

SB 1352 & HB 517- Minimum Wage [Sen. Rodriguez- Miami/Dade- Dist. 37 and Rep. Jacquet – Palm Beach- Dist. 88]

Minimum Wage; Revising the formula for the adjusted state minimum wage; reducing over time the amount of tip credit an employer may claim; prohibiting an employer from claiming a tip credit beginning on a specified date, etc.

Actions: 2/15/19 Filed

HR Florida's Position: While HR Florida does not oppose an increase in the minimum wage, the proposed legislation is too much and doesn't take into consideration employer size or location. In addition, it does not provide for an annual review to determine what impact additional increases may have on the economy prior to implementation. Additionally, the legislation removes the tip credit for employers over time. For these reasons, we oppose the legislation as written.

VAPING

SPB 7012- Vaping [Submitted by Innovation, Industry, and Technology Committee]

Vaping; Prohibiting vaping in an enclosed indoor workplace, except as otherwise provided; providing exceptions to the prohibition against vaping and smoking in an enclosed indoor workplace; requiring the proprietor or other person in charge of an enclosed indoor workplace to develop and implement a policy regarding specified smoking and vaping prohibitions, etc.

Actions: 1/28/19 On Innovation, Industry, and Technology Committee Agenda; Reported Favorably by Innovation, Ind, and Tech (Yeas 1- Nays 0); Referred to Rules; On Committee Agenda; Senate (Yeas 17, Nays 0); Pending Reference Review under Rule 4.7(2)

HR Florida's Position: HR Florida supports this legislation.

LEAVE

SB-692- FL Family Leave Act [Sen. Cruz –Hillsborough- Dist. 18]

Employment Practices; Creating the "Florida Family Leave Act"; requiring an employer to allow certain employees to take paid family leave to bond with a new child upon the child's birth, adoption, or foster care placement; requiring that family leave be taken concurrently with any leave taken pursuant to federal family and medical leave provisions; requiring an employer to provide notice to employees of the right to paid family leave, etc.

Actions: 2/4/19 Filed; Referred to Commerce and Tourism

HR Florida's Position: HR Florida opposes legislation that mandates paid leave for employers. This legislation would require employers as small as 15 employees to provide up to six months of paid leave for the birth or adoption of a child, an unsustainable feat for most employers. It is also impacts employers much smaller than those that fall under the Family Medical Leave Act.

HB 393- Employment Practices: Leave [Rep. Joseph- St. Lucie- Dist. 84]

Employment Practices; Requires employer to allow certain employees to take paid family leave for certain purposes; specifies limitations & duties related to employer's administration of family leave; provides family leave requirements; provides responsibilities and powers of DEO; provides penalties; authorizes civil action; authorizes award of specified compensation, damages, & fees; provides protections for employee who acts in good faith; prohibits employee from taking certain actions in bad faith; authorizes department to adopt rules; prohibits specified employment practices; provides certain rights for employee who is disabled from pregnancy, childbirth, or related medical condition; reenacts & revises provisions relating to administrative & civil remedies for violations of Florida Civil Rights Act of 1992.

Actions: 1/22/19 Filed; 1/30/19 Referred to Business and Professions Subcommittee

HR Florida's Position: See above.

TAX CREDITS/REFUNDS

SB-1098 & HB 643- Internship Tax Credit Program [Sen. Lee –Hillsborough/Pasco/Polk-Dist. 20 and Rep. Trumbull-Bay- Dist. 6]

Sales Tax Refund for Eligible Job Training Organizations; Providing that eligible job training organizations are entitled to receive a refund of a specified percentage of certain sales taxes remitted to the Department of Revenue; requiring such organizations to use the refund only for specified purposes; requiring that refunds be granted on a first-come, first-served basis, etc.

Actions: 2/15/19 Filed

HR Florida's Position: HR Florida is neutral as to the proposed legislation.

RESTRAINTS OF TRADE OR COMMERCE

SB-882 – Restraints of Trade or Commerce [Sen. Gruters – Sarasota/Charlotte- Dist. 23]

Restraints of Trade or Commerce; Revising the requirements for a contract that restricts or prohibits competition; redefining the term “legitimate business interest” to include only interests related to intellectual property.

Actions: 2/7/19 Filed; Referred to Commerce and Tourism

HR Florida's Position: HR Florida is opposed to this legislation as is greatly restricts an employer's ability to protect their legitimate business interests.

DRUG-FREE WORKPLACE

SB-890 and HB 707- Drug-Free Workplace [Sen. Baxley –Lake Marion/Sumter- Dist. 12 and Rep. DiCeglie –Pinellas- Dist. 66]

Drug-free Workplaces; Revising the contents of an employer policy statement with respect to employee drug use; revising the frequency of follow-up testing; revising specimen collection, verification, and documentation procedures, etc.

Actions: 2/7/19 Filed; Referred to Commerce and Tourism

HR Florida's Position: HR Florida supports this legislation as it updates the statutes to become more relevant to the current workplace. It also provides for additional testing parameters allowing employers to more effectively manage their Drug-Free Workplace Program.

UNEMPLOYMENT COMPENSATION

SB-990 & HB 563- Unemployment Compensation [Sen. Gibson- Duval-Dist. 6 and Reps. Joseph- St. Lucie- Dist. 84 Cortes- Seminole/Orange- Dist. 30, and Jenne- Broward- Dist. 99]

Unemployment Compensation; Prohibiting certain victims of domestic violence from being disqualified for benefits for voluntarily leaving work; prohibiting the employment record of an employing unit from being charged in certain circumstances, etc.

Actions: 2/13/19 Filed

HR Florida's Position: HR Florida supports this legislation as it does not charge the employing unit for additional unemployment compensation qualification and provides an opportunity to reduce workplace violence by giving victims of domestic violence additional resources.

SB 440 & HB 283: Florida Commission on Human Relations [Sen. Rouson – Hillsborough-Dist. 19 and Rep. Antone – Orange – Dist. 46]

Florida Commission on Human Relations; Providing quorum requirements for the Commission on Human Relations and its panels; revising the number of persons the commission may recommend for the Florida Civil Rights Hall of Fame; deleting a requirement that a facility or community that provides housing for older persons register with and submit a letter to the commission; deleting the requirement for the commission or Attorney General to investigate a complaint of discrimination in evaluating an application for club membership, etc.

Actions: 1/23/2019 Filed; 2/1/2019 Referred to Governmental Oversight and Accountability; Judiciary; Rules -SJ 63; 3/5/2019 Introduced; 3/6/2019 Favorable by Governmental Oversight and Accountability; 3/18/2019 Favorable by Judiciary; 3/19/19 Now in Rules

HR Florida's Position: HR Florida is in favor of this legislation as it eases the burden on employers in responding to FCHR claims, among other items.

SB 1488: Whistleblower's Act [Sen. Brandes – Pinellas – Dist. 24]

Designating the "Florida Public Whistleblower's Act"; revising the actions that an agency or independent contractor is prohibited from taking against an employee who participates in protected activity or discloses certain information; revising applicability of provisions relating to investigative procedures upon receipt of whistleblower information; revising investigative procedures relating to prohibited personnel actions; revising fact-finding responsibilities of the Florida Commission on Human Relations, etc.

Actions: 2/27/19 Filed; 3/8/19 Referred to Governmental Oversight and Accountability; Judiciary; Rules -SJ 63; 3/13/2019 Introduced

HR Florida's Position: HR Florida opposes this legislation.