



Week of 8-28-23
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Congressional Overview – Congress Resumes Session Next Week

When Congress returns from its August recess on Sept. 5, there will be just 25 calendar days left in the 2023 fiscal year. Speaker Kevin McCarthy (R-CA) has advised House Republicans that he believes Congress will have to pass a short-term government funding bill to avoid a shutdown this fall. The remarks reflect a growing recognition that Congress does not have enough time to reach a full-year funding deal before funding terminates on Sept. 30.

Senate Majority Leader Chuck Schumer (D-NY) said he met recently with McCarthy and agreed to pursue a stopgap bill, often called a continuing resolution or CR. “Speaker McCarthy and I met a few weeks back and we agreed we should do what’s called a CR — in other words, a congressional resolution where you just extend the existing funding for a few months so we could work this out. And I thought that was a good sign. But I would say this: Our Republican colleagues in the House need to follow the lead of their Republican colleagues in the Senate and work in a bipartisan way.”

The Senate, which requires 60 votes to overcome a filibuster and pass funding bills, is operating on a bipartisan basis by pursuing spending levels both parties support and avoiding controversial policy provisions that either side sees as a poison pill.

DOL Proposes Rule to Expand Overtime Pay for Salaried Workers

The Department of Labor (DOL) announced a new proposed rule that, if finalized, would adjust the salary level thresholds for executive, administrative and professional (EAP) workers relating to overtime pay. Currently, EAP workers are exempt from overtime pay under the Fair Labor Standards Act (FLSA) if:

- They are paid a minimum specified amount of salary;
- They are paid a predetermined and fixed salary; and
- Their duties primarily involve executive, administrative or professional duties.

Under the current rule, the salary threshold for EAP exemptions is \$35,568 annually. Under the proposed rule, this threshold would increase to \$55,068. Additionally, the proposed rule would increase the minimum salary threshold required for certain highly compensated employees (HCEs) to be exempt from overtime pay from \$107,432 to \$143,988.

OSHA Proposed “Walk Around Rule” Clears White House Review

The White House Office of Information and Regulatory Affairs (OIRA) completed its review of OSHA’s Worker Walkaround Representative Designation Notice of Public Rulemaking (NPRM). The rulemaking is expected to allow workers and/or their representatives to identify an individual to accompany OSHA inspectors on facility walkarounds, regardless of whether the individual is an employee of the employer and regardless of whether the workplace is unionized.

This policy was originally attempted during the Obama administration via a 2013 Letter of Interpretation, but that letter was struck down by a court as part of a suit by the National Federation of Independent Business (NFIB) and later withdrawn by the Trump administration.

OSHA Releases Details on Heat Proposal as Part of Small Business Review Obligations

As part of its obligations under the “Small Business Regulatory Enforcement Fairness Act” (SBREFA), OSHA must involve small business representatives in the development of some rules. This requires the agency convene a Small Business Advocacy Review Panel consisting of representatives from OSHA, the US Small Business Administration’s Office of Advocacy and OIRA. The panel hears comments from Small Entity Representatives (SER), who are presented with materials about the proposal. OSHA [has posted the SER materials and details](#) on the panel for its proposed regulation on heat injury and illness.