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IN ILLINOIS ON BEHALF OF BUSINESS INTERESTS

## **Shattuck & Associates Consulting, Inc.**

### **Governor's Action Report**

Prepared exclusively for the members of:

**Illinois Society of Human Resources Managers**

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## Governor's Action Report:

As of the end of August, the Governor has acted on all employment law legislation sent to him by the Illinois General Assembly. This report is a brief overview of those measures highlighting the key provisions as they impact Illinois employers.

Reflecting on the 2016 session, it is difficult to point to any meaningful changes that will stop Illinois from lagging the country in economic growth. Proposals passed by the General Assembly and sent to the Governor are for the most part added regulatory burdens on employers dictating further as to what employee benefits must be provided and how employer operations should be run.

In some instances, such as the unpaid leave issues, we were concerned that the political appearance of these bills would be extremely difficult to seek a veto by the Governor and then be able to sustain a veto. Therefore, we worked with legislative sponsors to minimize the impact on Illinois employers even though we would have preferred that no changes be made to the law.

### New Leave Benefit Laws:

#### **Expansion of Unpaid Leave for Victims of Sexual Abuse/Domestic Violence: [PA 99-765](#)**

Lead Sponsors: [Representative Camille Y. Lilly \(D\)](#), [Senator Toi W. Hutchinson \(D\)](#)

Amends the Victims' Economic Security and Safety Act (VESSA) expanding the law to any person who employs at least one employee. Employers of up to 14 employees will be required to provide up to 4 workweeks of unpaid leave during any 12-month period. (Current law requires employers of 15 to 49 to provide 8 weeks of unpaid leave and employers of 50 or more to provide 12 weeks of unpaid leave). It clarifies that leave may be used for the time a victim is experiencing an incident of domestic or sexual violence. Provides Effective January 1, 2017. VESSA is a very complicated and the Illinois law is the most complex law of its kind in the country. Small employers now covered by the law should become aware of the law's requirements and intricacies.

#### **Expansion of Leave Benefits for Employers Providing Leave Benefits: [PA 99-841](#)**

Lead Sponsors: [Representative Andrew F Skoog \(D\)](#), [Senator Jacqueline Y. Collins \(D\)](#)

Creates the Employee Sick Leave Act requiring employers that provide personal sick leave benefits to extend their policy to absences due to an illness, injury, or medical appointment of the employee's child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent, for reasonable periods of time as the employee's attendance may be necessary, on the same terms upon which the employee is able to use sick leave benefits for the employee's own illness or injury. Employers who have policies that provide the required leave, such as personal time off, do not have to modify those policies. Effective January 1, 2017.

#### **New Unpaid Leave Benefits for Child Bereavement: [PA 99-703](#)**

Lead Sponsors: [Senator Jennifer Bertino-Tarrant \(D\)](#), [Representative Natalie A. Manley \(D\)](#)

Creates the Child Bereavement Leave Act requiring employers subject to the federal Family Medical Leave Act (FMLA) to provide up to 2 weeks (10 work days) to an employee to use for unpaid bereavement leave to grieve the death of the employee's child, attend services in relation to the death of the employee's child, or make arrangements necessitated by the death of the employee's child. An employee has 60 days from the time after a violation occurs within which an employee may file a complaint. Effective July 29, 2016.

## Social Media & Workplace Privacy

### [PA 99-610](#)

Lead Sponsors: [Representative Will Guzzardi \(D\)](#), [Senator Michael Connelly \(R\)](#)

Amends the Right to Privacy in the Workplace Act making it unlawful for an employer or prospective employer to request or require an employee or applicant to authenticate or access a personal online account in the presence of the employer; to request or require that an employee or applicant invite the employer to join a group affiliated with any personal online account of the employee or applicant; or join an online account established by the employer. It prohibits retaliation against an employee or applicant. Effective January 1, 2017.

## Health Insurance Coverage Mandate

### [PA 99-672](#)

Lead Sponsors: [Representative Elaine Nekritz \(D\)](#), [Senator Toi W. Hutchinson \(D\)](#)

Mandates individual and small group health insurance coverage for contraceptives beyond what is required by the federal Affordable Care Act such as requiring the dispensing of 12 months' worth of contraception at one time. Most concerning are the changes that remove tools used by employer health plans to control drug utilization and costs. Effective January 1, 2017.

## New Cannabis Penalties

### [PA 99-697](#)

Lead Sponsors: [Senator Heather Steans \(D\)](#), [Representative Kelly Cassidy \(D\)](#)

Amends the Cannabis Control Act and provides that the possession of 10 grams or less of cannabis is a civil law violation punishable by a minimum fine of \$100 and a maximum fine of \$200. Amends the Illinois Vehicle Code to prohibit any person from driving any vehicle, snowmobile, or watercraft when the person has, within 2 hours thereof, a tetrahydrocannabinol (THC) concentration in the person's whole blood or other bodily substance of 5 nanograms or more of delta-9-tetrahydrocannabinol per milliliter of whole blood or 10 nanograms or more of delta-9-tetrahydrocannabinol per milliliter of other bodily substance from the unlawful consumption of cannabis. Effective July 29, 2016.

## Governor Vetoes Prevailing Wage Legislation

Governor Rauner amendatorily vetoed a prevailing wage bill that was strongly pushed by the operating engineers and other labor interests. [SB 2964](#) dictated to the Illinois Department of Labor that the prevailing wage would be established solely by collective bargaining agreements. The Governor's veto message focused on the unconstitutional requirement that IDOL use a nongovernmental, third party source of data (collective bargaining agreements) to produce a locality's prevailing wage. The Governor also indicated his concern that the changes to the law removed flexibility of local government units to determine their own prevailing wage.

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