



*Week of 4-4-16  
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### **Congressional Overview**

It appears that Congress increasingly is being defined by what it's not doing this election year. The Senate returned last week with a majority of Republicans saying no to any consideration of President Barack Obama's nominee to the Supreme Court. They stated "no hearings, no vote and not even a meeting with federal appeals court Judge Merrick Garland." They insist that the decision on filling the court vacancy rests with the next president after voters have their say in November's election.

In the House, many conservative members are in opposition to passing a budget, which would be a major embarrassment for Speaker Paul Ryan (R-WI). There are several legislative issues in limbo, including: the Supreme Court vacancy, the appropriation process, a plan to aid Puerto Rico with its \$70 billion debt and much more. Finally, the latest Gallup Poll shows public approval of Congress at an abysmal 13 percent. However, to date, no incumbent member has lost his or her primary.

### **PBGC Issues Revenue Study**

On March 31, the Pension Benefit Guaranty Corporation (PBGC) issued its study of revenues needed to continue to protect participants in multiemployer plans that are likely to run out of money. The multiemployer program's current assets are only a small fraction of the amount needed to cover guaranteed benefits for more than 1 million people in plans expected to run out of money in the next decade. While the Kline-Miller Multiemployer Pension Reform Act of 2014 (MPRA) increased premiums paid by multiemployer pension plans to the PBGC, the program is still deeply underfunded.

The report illustrates the effects of increasing premium revenues on PBGC's continued solvency under a variety of scenarios reflecting different assumptions as to how many plans would suspend benefits or apply for partition under MPRA. Under each scenario in the study, the likelihood that the multiemployer program will be insolvent before 2034 exceeds 50 percent, even if premium revenues are doubled. The Administration's FY 17 budget includes a proposal to further increase premium revenues for PBGC's Multiemployer Insurance Program. Every five years, the PBGC is required by law to study the finances of its multiemployer insurance program and report to Congress.

### **OSHA Publishes Final Silica Rule**

On March 24, OSHA issued its final rule for a new, more restrictive silica exposure standard. The rule imposes separate standards on general industry, maritime and on the construction industry. OSHA has estimated the rule's annual cost for the average construction establishment to be \$1,097 in 2012 dollars. Unlike the proposed rule, the final rule doesn't include mandates regarding protective clothing to address exposure; allows for limited use of compressed air, dry sweeping and dry brushing of silica contaminated clothing or surfaces; and requires covered employers to develop a written exposure control plan, among other differences.

OSHA also diverged from its proposal to give covered employers the alternative of either establishing a regulated area or an access control plan to limit access to areas where silica exposure exceeded the PEL. The final rule was published on March 25 in the Federal Register, and it will take effect 90 days after publication. Compliance

obligations for the construction industry will be triggered one year after the effective date, with certain excepted laboratory analysis requirements beginning after two years.

### **CBO Analysis Says President's FY 17 Budget Would Ultimately Increase Deficit**

The Congressional Budget Office (CBO) issued its analysis of the President's FY 17 Budget. Per the CBO, "...under the President's proposals, the federal budget deficit would decline in 2017 and 2018; however, outlays would rise more quickly than revenues, so deficits would grow. As a result, federal debt held by the public would grow as well. By 2026, such debt would be higher than it is now, measured as a percentage of the Nation's economic output, and it would be rising.

The CBO claimed, "The President's proposals would increase mandatory spending for education and job training by \$168 billion over the next decade. That total includes \$71 billion for preschool, elementary and secondary education programs, \$67 billion that would mostly help pay the costs of community college for some students, \$38 billion for the Federal Pell Grant Program and \$12 billion for apprenticeship and job training programs. Some other proposals would increase or decrease spending for education and job training by smaller amounts."

### **Supreme Court Rules in Favor of "One Person, One Vote"**

Last week, the Supreme Court ruled that states may count all residents, whether or not they are eligible to vote, in drawing election districts. The decision was a major statement on the meaning of a fundamental principle of the American political system, that of "one person, one vote." The justices ruled that creating voting districts "on the basis of the total population" is constitutional and does not need to change. The outcome preserves the status quo and is likely to be welcomed by Democrats and immigrants-rights advocates. A conservative legal group had urged the court to require states and localities to draw districts based on their eligible voters, a rule that would have shifted power away from areas that have large number of residents who are not citizens or who may not vote, including immigrants, children and prisoners.

### **DOL Unveils Rule Regarding Employers Hiring Labor Relations Consultants to Help Block Unionization**

On March 23, the DOL's Office of Labor-Management Standards unveiled the long-delayed, final rule on disclosure requirements for labor relations consultants helping employers combat workers' attempts to start a union or bargain collectively. The rule, which was first proposed in 2011, expands the reporting requirements under Section 203(b) of the Labor-Management Reporting and Disclosure Act, which means an employer must disclose hiring a third-party labor relations attorney or other consultant to try to prevent its employees' unionization attempts if the consultant engages in persuader activities that go beyond the plain meaning of advice. It applies even if the consultant has no direct contact with workers. The rule states that an employer and consultant will have to report to the OLMS when they're engaged in the following:

- Planning or conducting employee meetings.
- Training supervisors or employer representatives to conduct meetings.
- Coordinating or directing the activities of supervisors or employer representatives.
- Establishing or facilitating employee committees.
- Drafting, revising or providing speeches.
- Developing personnel policies designed to persuade employees.
- Identifying employees for disciplinary action, reward or other targeting.

The office estimates that up to 87 percent of employers hire consultants to help counter union organizing campaigns. It said, however, that it receives "very few" reports on such activities because the employer characterizes the action as falling under the "advice" exemption. The final rule requires the employer to fill out forms to disclose the relationship with the hired third party lawyer or consultant.