



# SCWA Legislative Update

January 4, 2021



As we begin a new year, the information below is very important to our small business owners. Please let us know if you have any questions.



## President Signs Omnibus And COVID Relief And Response Act Into Law

On December 27<sup>th</sup>, President Trump signed H.R. 133, “Omnibus And COVID Relief And Response Act of 2020,” into law.

Latest and most accurate text of the bill may be accessed by going to [www.congress.gov](http://www.congress.gov) enter “H.R. 133.” The window for H.R. 133 reads, “Consolidated Appropriations Act 2021.” Click on “Text.” The entire bill, with an index for the COVID part, which is near the end of the bill, will appear.

The COVID relief part of H.R. 133 is Division EE—“Taxpayer Certainty And Disaster Tax Relief Act of 2020.” You may use this bill title when referring specifically to the COVID relief law which, once again, is Division EE of H.R. 133.

Subtitle B of Division EE reads, “Subtitle B. Certain Provisions Extended Through 2025.”

- Subtitle B, Section 113 extends WOTC through 2025.
- Subtitle B, Section 118 extends Empowerment Zone Tax Incentives through 2025.

Subtitle C of Division EE reads, “Subtitle C. Extensions of Certain Other Provisions.”

- Subtitle C, Section 135 extends the Indian Employment Tax Credit for one year, through December 31<sup>st</sup>, 2021.

Further down the bill, under Title II, “Other Provisions,” is the part related to the new Employee Retention And Rehiring Tax Credit.

- Title II, Sections 206 and 207, reforms and extends the Employee Retention Credit through June 30, 2021.

We will be emailing a more concise explanation of the bill later this week.



## **WOTC Extended – Five More Years**

In a huge legislative victory for many small businesses, included in the relief/spending bill was a five-year extension of WOTC. The Omnibus Spending bill signed by President Trump on Sunday includes a provision that extended the Work Opportunity Tax Credit (WOTC) for five more years. The new expiration date for the program is December 31, 2025. This bill made no other changes to the WOTC program.



## **Congress Passes State DOT Relief and FY 2021 Funding Package**

On December 21, Congress passed an omnibus spending and COVID relief package that totals over \$3.7 trillion including \$900 billion in COVID relief and \$1.4 trillion in annual government funding after a chaotic week. The package includes \$10 billion in relief to State Departments of Transportation at 100 percent federal share.

The State DOT relief is included in the end of year package. It is so important that State DOT relief was included in this package to allow the states to carry out important road and bridge projects into 2021 and in turn Congress can focus on the long-term highway bill as we start the 117<sup>th</sup> Congress.

The COVID relief package includes \$45 billion for transportation including:

- State DOTs - \$10 billion
- Transit agencies - \$14 billion
- Motorcoach - \$2 billion
- Amtrack - \$1 billion

- Airline payroll - \$15 billion
- Airline contractors - \$1 billion
- Airports and airport concessionaires - \$2 billion

State DOT relief can be used to fund Surface Transportation Block Grant eligible projects. It can also be used for maintenance, operations, and personnel. The relief funds can be transferred to public tolling and ferry agencies for costs related to operations, personnel, salaries, etc.

Additionally, the bill contains final transportation appropriations for fiscal year 2021 that total \$75.4 billion for the Department of Transportation and Housing and Urban Development. Funding levels for programs are in line with the 2021 FAST Act extension. The bill includes a \$46.365 billion obligation limit for highways which is level with last year. There is also an additional \$2 billion plus up included by the appropriators for highway and bridge investment from the general fund.



## **FFCRA Paid Sick & Family Leave Not Required After December 31**

On December 27, President Trump signed the “Stimulus Bill”. One of the questions many employers have posed is whether the paid sick and family leave provisions of the Families First Coronavirus Response Act (FFCRA), which expire on December 31, are being extended into 2021.

The Bill, which is now law, does not extend this mandatory benefit into 2021. However, the Bill does extend the federal tax credit for both forms of paid leave through March 31, 2021, for employers with less than 500 employees that voluntarily wish to keep providing paid leave.

It is possible that after January 20, 2021, President-elect Joe Biden and the new Congress will agree to new legislation extending mandatory or voluntary paid sick and family leave. We will provide further alerts on these issues in the coming months if there are substantive changes.



## **SESCO: Employer Vaccination Programs and New EEOC COVID-19 Guidance**

The U.S. Equal Employment Opportunity Commission (EEOC) has updated its COVID-19 guidance, offering additional instruction as to whether and when an employer can require its employees to obtain a COVID-19 vaccine. According to the new EEOC guidance,

employers may put in place mandatory programs that require employees to receive a COVID-19 vaccination, subject to certain exceptions and other conditions to address accommodations for disabilities and religious beliefs.

**Employers May Mandate Vaccination.** The EEOC's guidance makes clear that a COVID-19 vaccination itself is not a medical examination so employers may mandate vaccinations without violating the Americans with Disabilities Act (ADA).

**Employers Must Consider Accommodations for Disabilities and Religious Beliefs.** Federal law requires employers to provide reasonable accommodations to applicants or employees that object to receiving a vaccination because of a disability or religious beliefs, unless the accommodation would impose an undue hardship on the employer.

**Administering the Vaccine.** As noted above, requiring employees to take the COVID-19 vaccine is not prohibited under the ADA, but the ADA does prohibit employers from making disability-related inquiries that are not "job-related and consistent with business necessity." Because pre-screening vaccination questions are likely to elicit information about an employee's disability, employers should make sure that they meet this standard if they intend to administer the vaccine directly or by contracting with a third party to have the vaccine administered. The EEOC outlined two exceptions to the pre-screening rule.

- First, it would not apply if the employer required the vaccine, but the employee received it from a non-employer related third party, like the employee's own health care provider or a pharmacy.
- It would also not apply if the employer offered the vaccine on a voluntary basis, because then answering the pre-screening questions would also be voluntary.

If an employer does administer the vaccine or contracts with a third party to do so, it must ensure that it keeps any information obtained through the pre-screening process (or otherwise) confidential.

The EEOC's guidance clearly states that requiring an employee to provide proof of a COVID-19 vaccination is permissible.