SCWA Legislative & Regulatory Update

November 18, 2024

The 2024 Election and Outlook

Donald Trump is poised to return to the White House as the 47th president of the United States, marking what many believe to be the most extraordinary political comeback in American history. His victory has realigned the political landscape, granting Republicans control over both the legislative and executive branches of government. With majorities in Congress and Trump's leadership, the GOP is ready to push forward with bold plans that could reshape the nation's policies for years to come.

The Republican Party's hold on the U.S. House of Representatives ensures that Trump will have a strong ally in advancing his legislative agenda. House Speaker Mike Johnson, a loyal supporter of Trump's "America First" platform, has already been preparing for this moment. Johnson has outlined a detailed conservative economic agenda, which he plans to shepherd through Congress with the full backing of the Republican majority. This agenda includes a focus on cutting taxes, rolling back regulations, and pursuing an aggressive approach to immigration reform.

In the Senate, Republicans have also solidified their majority under the leadership of Senator John Thune. Thune has expressed confidence in the Senate's ability to confirm Trump's cabinet picks without delay. Among the most talked-about appointments are Representative Matt Gaetz as attorney general and Fox News commentator Pete Hegseth as secretary of defense. These selections reflect Trump's strategy of appointing staunch allies who align with his vision and are prepared to help implement his policies swiftly.

One of the key items on the Republican agenda is extending the Trump-era tax cuts that are set to expire at the end of 2025. These tax cuts were a central feature of Trump's first term, and their renewal is seen as a priority for both the president-elect and the Republican leadership. Additionally, Trump has advocated for further reductions in the corporate tax rate, arguing that such measures will stimulate economic growth and maintain the United States' competitive edge on the global stage.

Speaker Johnson has emphasized the importance of acting quickly to capitalize on the GOP's unified control of the federal government. With a majority in both the House and Senate, Republicans plan to move legislation efficiently through the system, minimizing delays and roadblocks. Johnson has described this period as a "once-in-a-generation opportunity" to implement conservative policies that align with Trump's vision for the country.

The implications of this Republican resurgence extend beyond tax and economic policy. Immigration reform, a cornerstone of Trump's 2016 campaign, is now taking center stage with Trump's most recent announcements today. GOP leaders have signaled their intent to introduce measures aimed at securing the southern border and overhauling the country's immigration system. These moves are expected to reignite debates over national security and humanitarian concerns, setting the stage for a contentious legislative battle.

As Trump prepares to take the oath of office, the Republican Party is mobilizing to deliver on its promises. With key leaders like Mike Johnson and John Thune at the helm, and a supportive Congress ready to act, the next chapter of American politics is likely to be one defined by rapid and sweeping change. For Trump and his allies, this moment represents a chance to solidify their vision for the nation, one that prioritizes economic growth, national security, and a return to conservative values.

Lawmakers Renew Push for CTA Delay

Here's a bit of good news on the Corporate Transparency Act front. More than three dozen lawmakers have sent a letter to the Financial Crimes Enforcement Network requesting a one-year delay of the CTA's fast-approaching reporting deadline.

The effort was led by Congresswoman Lisa McClain (R-MI) and cites ongoing concerns over the lack of awareness among affected businesses when it comes to their new compliance obligations, the confusion surrounding several ongoing legal challenges, and other critical issues. The letter was signed by 44 House members, including Majority Whip Tom Emmer (R-MN) and Financial Services Committee Vice Chair French Hill (R-AR).

With time running out before the year-end reporting deadline, the potential for a delay comes as welcome news to the 33 million entities who would directly benefit from the relief. It's also clear from discussions with legislators and staff that the renewed focus on the CTA is no coincidence. The more small business owners learn about the new requirements, the louder their voices become in asking elected officials for help.

This dynamic also helps explain recent legislative efforts to implement either a delay or the wholesale repeal of the CTA. For example, the Protect Small Business and Prevent Illicit Financial Activity Act (H.R. 5119) passed the House in a near-unanimous vote last year but has remained stalled in the Senate over opposition from Senate Banking Committee Chairman Sherrod Brown (D-OH).

The bill's sponsor, Congressman Zach Nunn (R-IA) also recently introduced a similar delay bill (H.R. 9278) which enjoys support from both sides of the aisle.

Meanwhile, Senators James Lankford (R-OK) and Tim Scott (R-SC) introduced amendments to this year's National Defense Authorization Act (NDAA), the annual spending package that is one of this year's few remaining must-pass bills. Finally, the bicameral Repealing Big Brother Overreach Act (H.R. 8147 / S. 4297) remains pending in both chambers, with support growing by the week.

- The bottom line is that, even with two months to go before the year-end filing deadline, a delay attached to the NDAA, the government funding bill, or another legislative vehicle is still possible. So a big thank you to Congresswoman McClain and the other signatories and a general call to the business community – now is the time to weigh in with your lawmakers. If we are going to succeed in delaying this reporting deadline, Main Street needs to be heard!

Letter Requesting the Wage and Hour Division Delay the Second Increase to the Minimum Salary Threshold to at least May 1, 2025, in Light of Pending Litigation

Dear Administrator Looman:

Due to the pending legal challenges to the Wage and Hour Division's (WHD) "Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees" Final Rule (overtime rule), we write to request WHD delay implementation of the second increase to the minimum salary threshold as mandated by the Final Rule from January 1, 2025 to at least May 1, 2025. This additional time will ensure that employers will not be forced to implement the new salary threshold when it might not survive judicial review, which is currently underway.

The new overtime rule implements two increases to the minimum salary threshold under which all workers must be paid overtime. The first increase went into effect on July 1, and the second is set to be implemented on January 1, 2025, when the threshold will increase from almost $44,000 per year to more than $58,000 per year. In total, the changes will increase the minimum salary threshold 65% in less than a year. This considerable increase is not only extremely costly but also exceedingly burdensome for employers of all sizes nationwide. Should the second increase take effect, employers across the country will be required to make significant changes to their payrolls as well as employee classifications and benefits. Additionally, WHD will have to dedicate resources to implementing the new rule and educating employers and employees on the changes. If the courts should then invalidate the rule, resources spent on implementation will have been unnecessarily wasted.

There are currently three legal challenges to the final rule in federal courts. The District Court for the Eastern District of Texas is expected to issue a decision soon in a case in which the state of Texas, the Plano Chamber of Commerce, and several other employer organizations challenged the legality of the rule. Importantly, the same court has already issued a limited preliminary injunction against the rule due to its inherent flaws. While the preliminary injunction only applied to Texas state employees, the ruling suggests that the court found merit in Texas' case and that the rule will not survive judicial scrutiny.

While court decisions in these challenges are expected in the coming weeks, they are not guaranteed. Moreover, the implementation date is rapidly approaching. Therefore, pursuant to 5 U.S. Code § 705, WHD should delay implementation of the second increase to at least May 1, 2025, to provide clarity and certainty to the employer community. This will provide employers with sufficient time to analyze the eventual decision and determine and implement necessary changes to come into compliance with the rule, should be the rule be upheld. Importantly, other federal agencies during the Biden administration have appropriately delayed the implementation of rule changes pending the outcome of litigation. For example, the Securities and Exchange Commission indefinitely delayed implementation of its climate-related disclosure rules as court challenges proceeded.

A delay could save employers and the agency significant resources. We therefore urge WHD to delay implementation until at least May 1, 2025.