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IMPLICATIONS OF LABOR INITIATIVES DURING THE CORONAVIRUS CRISIS

AN INSIDE-THE-BELTWAY PERSPECTIVE

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FAMILIES FIRST ACT & CARES ACT

Families First Act

Families First Act (PL 116-127)

- Paid Sick Leave
- Expanded & Paid Family & Medical Leave Act
- Expanded Unemployment Benefits
- Tax Credits for Sick and Family & Medical Leave Act
- Expanded Unemployment Benefits

CARES Act

Coronavirus Aid, Relief and Economic Security Act (CARES Act) (PL 116-136)

- Business Loan Program and Lending Facilities (\$500 billion)
- Payroll Tax Delay
- Retirement and Employee Benefits
- Unemployment Insurance
- Small Business Loan Program (\$349 billion)

LOAN PROGRAMS AND LABOR REQUIREMENTS

CARES Act Labor Provisions

- **Coronavirus Economic Stabilization Act of 2020 (§ 4001): Assistance for Mid-Sized Businesses**
 - Eligible Borrowers include businesses with between 500-10,000 employees
 - Employees are defined as having the same meaning as the NLRA, which excludes statutory supervisors and independent contractors
 - Loan **terms** include:
 - Borrower will not abrogate existing collective bargaining agreements for the term of the loan and for two years after completing its repayment of the loan
 - **Borrower will remain “neutral” in any union organizing effort for the term of the loan**
- Mid-Sized Business Loans (MSBL) vs. Main Street Lending Program (MSLP)
 - No regulations or guidance from Treasury yet (if ever) on MSBL, and instead opting for MSLP

TIPS FOR COLLECTIVE BARGAINING OVER THE IMPACT OF COVID-19

Tips for Dealing with Unions in Response to COVID-19

- Provide union with advance notice of operational changes, layoffs, temporary shutdowns, or policy changes in response to COVID-19
- Respond to union requests for information as promptly as possible
- Engage in effects bargaining, if union requests, and possibly decision bargaining
 - Circumstances may require bargaining in a compressed period
- No duty of either party to agree to modify terms of existing CBA
 - But there may be a mutual interest in bargaining temporary, mid-term modifications
- Absent a specific agreement to modify the CBA, rely on existing terms of CBA and past practice to take unilateral action

Virtual Bargaining Best Practices

- Use video platform
- Ground rule on all participants joining by video and not just phone
- Ground rule on no recording
- Logistics for passing proposals
- Separate caucus “rooms”



WHAT'S NEXT FOR CONGRESS?

What's Next for Congress?

- Stimulus 3.5: Additional funding for the Paycheck Protection Program (small business loans) and funding for healthcare providers
- Stimulus 4.0: Addressing industry sectors not covered by previous stimulus packages and technical corrections
- Stimulus 5.0: Reopening America
- Stimulus 6.0: ?

What's Next for Congress?

- How do you legislate without legislators?
 - No hearings
 - No witness testimony
 - No Administration experts
 - No committee mark-ups
 - Remote voting?

Presenters



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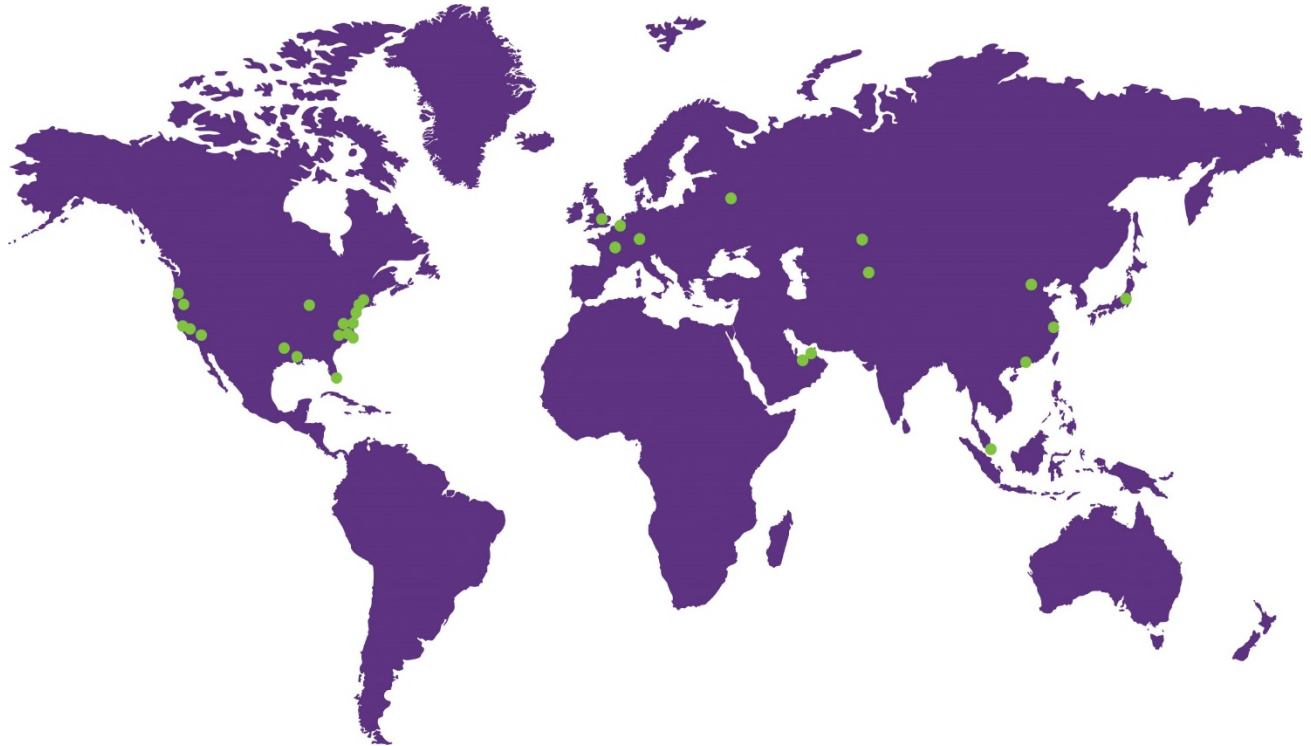
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