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Subject: State, Local Labor Rules May Rise To Counter Pro-Biz Trump

PUBLIC POLICY

Friday, December 23, 2016

TOP NEWS

Analysis

State, Local Labor Rules May Rise To Counter Pro-Biz Trump

On Tuesday, Washington, D.C., became the latest municipality to institute a generous paid family leave policy, with eight weeks' child-care leave and six weeks to look after sick relatives, continuing a trend of employee-friendly local and state regulations that management-side attorneys believe could accelerate as the incoming Trump administration effects a more pro-business mindset.

Obama Admin. Ends 'Obsolete' Visitor Registration Program

The Department of Homeland Security announced Thursday it's scrapping an 'obsolete' program once used to track men from countries with sizeable Arab and Muslim populations, in the wake of expressed concerns from civil rights groups and political leaders that it could be used by President-elect Donald Trump to create a registry for Muslims.

Dems Push Trump To Keep Obama OT Pay Expansion Intact

A group of 18 congressional Democrats, led by Sen. Patty Murray of Washington and Rep. Bobby Scott of Virginia, have urged President-elect Donald Trump not to scrap the U.S. Department of Labor's rule expanding overtime protections to millions of white collar workers, which was a signature initiative of the Obama administration.

NC Pols Don't Undo Bathroom Law Despite Apparent Deal

North Carolina lawmakers were unable to follow through on a plan Wednesday to repeal the state's infamous law requiring transgender people to use public bathrooms and other facilities that correspond to the sex on their birth certificates, just days after incoming Gov. Roy Cooper had brokered a potential deal to scrap the law.

The Biggest NJ Policy Developments Of 2016

A deal to boost transportation funding, waterfront access rules and the state takeover of a struggling Atlantic City were among New Jersey's defining legislative and regulatory measures in 2016, but the year also was marked by failed efforts to increase the minimum wage and give raises to judges.

Boston Dodges Taxi Drivers' Unfair Uber, Lyft Regs Suit

A Massachusetts federal judge on Wednesday tossed a suit from Boston taxicab drivers alleging city officials violated the equal protection clause by

LAW FIRMS

Agostino & Associates
Arnold & Porter
Audet & Partners
Bancroft PLLC
Bartlit Beck
Berwin Leighton
Bingham McCutchen
Boies Schiller
Bragar Eagel
Cahill Gordon
Chadbourn & Parke
Chiesa Shahinian
Cleary Gottlieb
Connell Foley
Covington & Burling
Cravath Swaine
Cuneo Gilbert
DLA Piper
Davis Graham
Dentons
Duane Morris
Edelson PC
Eversheds LLP
Foley & Lardner
Fox Rothschild
Gordon & Rees
Graves Dougherty
Greenberg Traurig
Hengeler Mueller
Hickey & Evans
Hogan Lovells
Hueston Hennigan
Hunton & Williams
Husch Blackwell

applying stringent regulations to traditional taxicabs but not to so-called transportation network companies such as Uber and Lyft, saying a newly enacted state law moots their claims.

BANKING & SECURITIES

SEC Escapes Risk-Retention Rule Suit In DC Circ.

A D.C. federal judge on Thursday granted a bid by the U.S. Securities and Exchange Commission to toss a Wall Street interest group's challenge to federal requirements that investment firms retain an interest in debt securities they issue, saying the agencies responsible acted within their rights.

Senate Dems Push Wells Fargo For Info On Fake Accounts

Senate Democrats on Thursday pushed Wells Fargo & Co.'s board of directors to answer questions related to the phony account-generation scandal that the bank's former chairman and CEO failed to satisfactorily address in his widely panned fall testimony.

Green Finance Panel Forms Amid EU Capital Markets Push

The European Commission revealed Thursday the makeup of a sustainable investing panel to advise the European Union on its ambitious capital markets initiative for increasing member states' access to financing.

ENERGY & ENVIRONMENTAL

Enviros Blast Challenge To NY Nuclear Plant Subsidies

Environmental groups this week threw their support behind New York state's defense of its plan to subsidize three struggling nuclear power plants as part of its clean energy program, telling a federal judge that claims the subsidies usurp Federal Energy Regulatory Commission authority over wholesale electricity markets are meritless.

IP & TECHNOLOGY

USPTO Extends 'Missing Parts' Patent Program

The U.S. Patent and Trademark Office has extended its Extended Missing Parts Pilot Program through the beginning of 2018 to allow the federal agency to continue to evaluate whether to make permanent the initiative, which reduces costs for patent applicants, according to a Wednesday notice.

TRANSPORTATION & INFRASTRUCTURE

DOT Expands Drug Testing Regs To Temp Truck Drivers

The U.S. Department of Transportation on Thursday expanded drug and alcohol testing requirements for truck drivers to include commercial drivers employed by staffing agencies.

Calif. Motorists Can Retool Toll-Fine Due Process Suit

A federal judge dismissed most of a proposed class action alleging the operators of a cashless toll system in Orange County, California, levied inflated fines and deprived drivers of meaningful opportunities to challenge those fines, but gave the drivers a chance to amend their due process claims.

EMPLOYMENT

Irell & Manella
Jenner & Block
Johnson & Bell
Jones Day
Kaye Scholer
King & Wood Mallesons
Kirkland & Ellis
Klasko Immigration Law Partners
LeClairRyan
Liner LLP
Linklaters
Littler Mendelson
Macfarlanes LLP
Maynes Bradford
McCarter & English
Milbank Tweed
Miller Korzenik
Morgan Lewis
Nossaman LLP
O'Melveny & Myers
Ogletree Deakins
Pannone Lopes
Paul Weiss
Proskauer Rose
Reed Smith
Rosenthal Monhait
Scarinci Hollenbeck
Schlossberg LLC
Sedgwick LLP
Shearman & Sterling
Sidley Austin
Simpson Thacher
Smith Haughey
Spiegel & McDiarmid
Squire Patton Boggs
Stone Loughlin
Sullivan & Cromwell
Sutherland Asbill
Venable LLP
Weil Gotshal
Winston & Strawn
Zeldes Haeggquist

COMPANIES

AT&T Inc.
AXA SA

Murray, AFL-CIO Call On Puzder To Release Worker Docs

Sen. Patty Murray, D-Wa., joined AFL-CIO President Richard Trumka and other worker advocates on Thursday to call on labor secretary nominee Andrew Puzder, the CEO of the company that operates fast-food chains Carl's Jr. and Hardee's, to release documents clarifying the company's policies toward employees.

Texas Mutual Wins Fee Fight With Air Ambulance Co.

Texas Mutual Insurance Co. won its appeal of an order from the State Office of Administrative Hearings when a Texas state judge recently sided with it in a fee dispute with PHI Air Medical LLC over the cost of transporting patients covered by workers' compensation insurance.

PRIVACY & CONSUMER PROTECTION

Franken Raises Data Privacy Concerns After Uber App Update

U.S. Sen. Al Franken, D-Minn., is urging Uber CEO Travis Kalanick to rethink the latest update to the car-hailing app, saying in a letter sent Wednesday that new restrictions on users' ability to control access to their location merits new privacy policies.

INTERNATIONAL TRADE

US Anti-Dumping Duties Draw Fire During WTO Review

The World Trade Organization on Wednesday ended its comprehensive audit of United States trade practices with complaints the U.S. has been too liberal in its use of anti-dumping duties.

US Threatens EU With New Tariffs Over Beef Hurdles

The Obama administration on Thursday threatened to reinstall steep retaliatory tariffs on a litany of European Union products in light of Brussels' failure to sufficiently open its market to imports of U.S. beef, reigniting a dispute that reaches back to the Clinton administration.

TAX

Tax Court Says Amended Info Can't Back \$64.5M Deduction

The U.S. Tax Court on Thursday held that information from a donee organization that no goods were provided in exchange for a charitable contribution does not eliminate the donor's requirement to substantiate that information by contemporaneous written acknowledgment to receive a deduction.

EU Top Court Says Portugal's Exit Tax Is Discriminatory

Europe's highest court ruled on Wednesday that an exit tax imposed by Portugal on residents who exchange shares and leave the country is discriminatory on the grounds that it violates treaties upholding the freedom of movement and establishment.

IMMIGRATION

USCIS Tells Cos. To Stop Identifying Returning Guest Workers

U.S. Citizenship and Immigration Services has told employers who had been using the returning worker exemption to avoid a cap under the guest worker visa program to stop flagging returning employees, now that Congress has

Altman Weil Inc.

America Fujikura Ltd.

American Civil Liberties Union

American Federation of Labor & Congress of Industrial Organizations

American Federation of Televis and Radio Artists

American Immigration Lawyers Association

Association of Corporate Couns

Aviva Investors Holdings Ltd.

CKE Restaurants, Inc.

Center for American Progress

Center for Constitutional Rights

Charter Communications Inc.

DISH Network Corporation

Dynegy Inc.

El Paso Corporation

Entergy Corporation

Environmental Defense Fund Ir

Exelon Corporation

IMS Health Inc.

London Stock Exchange Group PLC

Lyft Inc.

NRG Energy Inc.

National Association of Broadcasters

National Basketball Association

National Collegiate Athletic Association

National Telephone Cooperativ Association

Natural Resources Defense Council

Northern Mariana Islands Retirement Fund

Orange County Transportation Authority

Praxair, Inc.

Sabre Holdings Corp.

Sirius XM Radio Inc.

Talen Energy Corp.

Tele2 AB

Texas Mutual Insurance Co.

Toys "R" Us Inc.

U.S. Airways Group Inc.

allowed the exemption to lapse.

IDNYC Data Dump Delayed By Judge, Pending Hearing

A New York state judge on Wednesday said that New York City must hold off on destroying documents related to applications for the city-issued IDNYC identification cards, saying that he wants to hear testimony about the retention of the public records related to immigrant applicants.

NATIVE AMERICAN

Tribe Must Solve Disputed Election On Its Own, Judge Says

A Rhode Island federal judge decided Thursday it was up to the Narragansett Indian Tribe to resolve a disputed election, impeachment and power dispute, adding he was leaning toward dismissing the case.

Colo. Tribe Says BIA Whistleblower Report One-Sided

The Southern Ute Indian Tribe blasted the U.S. Office of Special Counsel for recently stating that the Bureau of Indian Affairs removed a whistleblowing employee after he angered the Colorado tribe about certain gas leases, denying on Wednesday that the Utes did anything improper.

Calif., New Mexico Intervene In BLM Flaring Rule Suit

California and New Mexico on Wednesday urged a Wyoming federal court to reject a bid by other states to block implementation of a new Bureau of Land Management rule aimed at limiting the release of methane from drilling operations on federal and Native American lands, the same day the court granted a bid from the two states to intervene in the case.

TELECOMMUNICATIONS

Analysis

EU Data Retention Slam Offers Telecoms Cloudy Path Forward

The European high court's declaration Wednesday that bulk data retention mandates can't fly provides certainty to telecoms about what they can't do under national laws, but the court's lack of clarity on what data they should still hold on to for law enforcement is likely to leave service providers in a bind.

Rural Broadband Group Urges Caution In Next-Gen TV Rollout

A trade group representing rural pay-TV providers urged the Federal Communications Commission Wednesday to take a cautious approach as it mulls new rules to advance "Next Generation" TV broadcasting, requesting the commission issue a notice of inquiry prior to any rulemaking.

EXPERT ANALYSIS

Why Calif. Law Shouldn't Stop IMDb From Posting Actor Ages

A new California law compels IMDb.com to remove actors' ages from its website upon their request. The law is an attempt to stop age discrimination in Hollywood. The law is also unconstitutional, says Dan Terzian of Duane Morris LLP.

What To Know About New HHS Civil Monetary Penalties

More than two years after its first proposal, the U.S. Department of Health and Human Services issued two final rules updating its civil monetary penalty

Uber Technologies Inc.
Verizon Communications
Wells Fargo & Co.

GOVERNMENT AGENCIES

Bureau of Citizenship and Immigration Services
Bureau of Indian Affairs
Bureau of Land Management
California Environmental Protection Agency
Consumer Financial Protection Bureau
Equal Employment Opportunity Commission
European Commission
Federal Bureau of Investigation
Federal Communications Commission
Federal Energy Regulatory Commission
Federal Motor Carrier Safety Administration
Federal Reserve System
Internal Revenue Service
Massachusetts Legislature
Massachusetts Port Authority
Narragansett Indian Tribe
New York Attorney General's Office
North Carolina General Assembly
Office of the Comptroller of the Currency
Securities and Exchange Commission
Southern Ute Indian Tribe
U.S. Attorney's Office
U.S. Department of Health and Human Services
U.S. Department of Homeland Security
U.S. Department of Justice
U.S. Department of Labor
U.S. Department of Transportation
U.S. Department of the Interior
U.S. Office Of Special Counsel
U.S. Patent and Trademark Office
U.S. Senate
U.S. Supreme Court

regulations and safe harbors under the anti-kickback statute. While the latter rule has received more media attention, the CMP final rule includes important guidance on the agency's administrative enforcement authorities, say Judith Waltz and Jill Wright of Foley & Lardner LLP.

[Some Considerations As Fed Provides Volcker Rule Relief](#)

The Federal Reserve Board recently released guidance clarifying how banking entities may request additional time to divest or conform their investments in certain illiquid funds to the Volcker Rule. However, the timing of the guidance presents specific challenges and considerations, say attorneys with Arnold & Porter LLP.

LEGAL INDUSTRY

[5 Events That Rocked The Legal Industry In 2016](#)

From a new first-year salary benchmark to the first data breach class action lodged against a law firm, here are the events that shaped the legal industry in 2016.

[Want Diverse Lawyers? Don't Let Them Mention Sailing](#)

A new study of how BigLaw recruits from second-tier law schools has found that even subtle hints of an upper-class background make privileged white men more likely to get an interview.

[Law360's Weekly Verdict: Legal Lions & Lambs](#)

O'Melveny & Myers LLP topped this week's list of legal lions when it secured an important appellate victory for SiriusXM in litigation over pre-1972 song royalties while Cleary Gottlieb Steen & Hamilton LLP and its co-counsel were among the legal lambs after a jury leveled a \$15 million verdict against their client in antitrust litigation with U.S. Airways.

[KWM Files Protection Notice As Administration Looms](#)

Financially struggling global law firm King & Wood Mallesons filed a notice of intention to appoint administrators in U.K. court, the firm confirmed Thursday, setting the stage for a possible descent into administration.

[In Case You Missed It: Law360's Hottest Stories Of 2016](#)

For those who missed out, here's a look back at the articles that generated the most buzz on Law360 in 2016.

[Law360 Closed For The Holidays](#)

The offices of Law360 will be closed from Monday, Dec. 26, to Monday, Jan. 2, for the holidays. Publication of news articles and newsletter delivery will resume Tuesday, Jan. 3.

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