

Executive Compensation—Compensation Consultant Independence

Issue	Encouraging Boards compensation consultants to be independent from firms whose consultants perform other work for a company to limit the potential for conflicts of interest.
Legislation	Title II, Section 2003 of H.R. 4173 (incorporated from H.R. 3269, which passed the House 237-185 on 7/31/09) by Rep. Barney Frank (D-MA), which passed the House 223-202 on 12/11/09) would require Board compensation consultants and other advisors to be independent under standards set by the SEC. Compensation Committees would be required to report in the proxy whether they retained an independent consultant. H.R. 2861 by Rep. Peters (D-MI) also would have mandated compensation consultant independence. Senate Financial Reform bill draft by Senate Banking Committee Chairman Christopher Dodd (D-CT) would require all Board compensation consultants to be independent, based on standards set by the SEC.
Administration	Proposed enhanced compensation consultant independence standards and supports H.R. 4173 and the Senate Financial Reform draft. SEC finalized new disclosure rules, effective 3/1/10 requiring greater disclosure requirements for compensation consultants whose firms or affiliates perform work for both the compensation committee and the compensation consultant in excess of \$120,000 annually.
HR Policy Assn.	Supports increased consultant independence.

Executive Compensation—Miscellaneous Pay and Governance Changes

Issue	Requiring companies to adopt clawback policies.
Legislation	Draft financial services reform legislation by Sen. Christopher Dodd (D-CT) would require companies to adopt clawback policies applying to all material restatements for executive officers. S. 2813 by Sen. Robert Menendez (D-NJ) would mandate recoupment of incentive pay determined to be wrongly received in the event of a successful shareholder derivative suit, broaden the Sarbanes-Oxley clawback mandate and give shareholders a private right of action to enforce clawbacks. S. 3049, "Corporate Executive Accountability Act" also by Sen. Menendez, would mandate all companies implement a clawback policy that recoups incentive compensation from all employees in the event of a material restatement, expands the Sarbanes-Oxley clawback requirement and allows for a private right of action. H.R. 2861 by Rep. Peters (D-MI) would require the SEC to issue rules mandating clawbacks.
Administration	Supports clawbacks, but has also indicated that share ownership guidelines may eliminate the need for clawbacks
HR Policy Assn.	Supports clawbacks as company policy but opposes legislative changes that interfere with a board-centric approach to compensation and governance.

Executive Compensation—Compensation Committee Independence Standards

Issue	Increasing the stock exchange listing standards that govern the independence of compensation committee members.
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Legislation	Title II, Section 203 of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009 (inserted from H.R. 3269, which passed the House on 7/31/09, 237-185) would require the stock exchanges to mandate independence standards for compensation committees similar to audit committees (no outside fees from the company, other than directors' fees, and must not be an "affiliated person" under securities laws). H.R. 3272 by Rep. Ellison (D-MN) would require increased independence for compensation committee members. 11/10/09 discussion draft of Financial Reform legislation by Senate Banking Committee Chairman Christopher Dodd (D-CT) would require the SEC to set stricter compensation committee independence standards through stock exchange listing requirements.
Administration	Proposed the enhanced independence standards and supports the House bill.
HR Policy Assn.	No position at this time.

Executive Compensation -- Taxation

Issue	Some believe companies should be required to count stock options granted as a compensation expense in the year granted use the fair value calculated as of the grant date instead of when the options are exercised. They also believe that this value ought to be included as compensation in determining the \$1 million cap under section 162(m) of the Internal Revenue Code.
Legislation	Ending Excessive Corporate Deductions for Stock Options Act, S. 1491, by Sen. Levin (D-MI), would change the taxation of stock options to make them consistent with financial reporting and include the expense under section 162(m) of the tax code.
Administration	No position.
HR Policy Assn.	Opposes the change in tax treatment for stock options and extending the reach of section 162(m).

Executive Compensation -- Taxation

Issue	Denying the corporate tax deduction for any executive earning more than a multiple of the lowest-paid full-time employee
Legislation	"Executive Pay Capped Deduction Act of 2009," S. 1007, by Sen. Richard Durbin (D-IL) would prohibit a company from deducting any part of an employee's pay if the pay exceeded 100 times the average compensation of all employees of the employer. "Income Equity Act" by Rep. Barbara Lee (D-CA) in the 110th Congress would deny a tax deduction for all compensation to executives whose pay exceeds 25 times the lowest paid employee and require the company to file additional executive and rank-and-file pay data with the Department of the Treasury.
Administration	No Position.
HR Policy Assn.	Opposes tying tax deductions for compensation expense to pay ratios.

Executive Compensation -- Taxation

Issue	Limiting Tax Deduction for Executive/Employee Compensation of non-TARP companies
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Legislation	Sen. Blanche Lincoln (D-AR) amendment to America's Healthy Future Act (Section 6014) would reduce deductible compensation under Sec. 162(m) from \$1 million to \$500,000, eliminate the performance-based exception, and apply the limitations to deferred compensation for all executives, directors and employees of health insurers receiving 25% or more of gross premium from basic health insurance requirements under the bill; Compensation Fairness Act (from 110th Congress), Sen. Kerry (D-MA), would eliminate the performance-based exception to the \$1 million limit on deductible compensation for proxy officers and index the \$1 million for inflation.
Administration	Treasury Secretary Timothy Geithner has voiced support for limiting section 162(m), but has also said a careful examination is necessary before acting. President Obama has announced he will seek to impose a tax on former TARP recipients to recoup TARP funds that have not been recovered by the Treasury.
HR Policy Assn.	Opposes further restrictions under 162(m) and believes that tax code limitations on compensation have created substantial unintended consequences.

401(k) Fee Disclosure/Regulation

Issue	Requiring employers to clearly disclose the fees associated with maintaining a 401(k) plan that are paid by employees, as well as subsidies the employer receives from recordkeepers
Legislation	401(k) Fair Disclosure for Retirement Security Act (H.R. 1984/S. 401), by Rep. George Miller (D-CA) and Sen. Tom Harkin (D-IA), would require 401(k) plan administrators to disclose "in clear and simple terms" all fees charged to plan participants, provide detailed information on investment strategies, risks and returns when employees sign up for 401(k) plans; disclosure to employers and employees of potential conflicts of interest by the administrator; and inclusion of at least one lower-cost, balanced index fund in the investment lineup.
Administration	.
HR Policy Assn.	No position at the present time.

Alternative Dispute Resolution

Issue	Preclude the use of binding arbitration to resolve employment disputes
Legislation	The Arbitration Fairness Act (S. 931; H.R. 1020), by Sen. Feingold (D-WI) and Rep. Johnson (D-GA), would render unenforceable predispute agreements providing for binding arbitration of employment, consumer or franchise disputes; Amendment to DOD appropriations bill (H.R. 3326, P.L. 111-118) by Sen. Franken (D-MN) barsbar DOD contractors from requiring predispute arbitration agreements of most employment litigation as a condition of employment.
Administration	.
HR Policy Assn.	Supports maintaining pre-dispute arbitration agreements

Discrimination - Damages

Issue	Elimination of cap on compensatory and punitive damages in discrimination cases (\$50,000 to \$300,000, depending on employer size)
Legislation	The Equal Remedies Act, introduced in the 110th Congress by Sen. Kennedy (D-MA); Civil Rights Act, introduced in the 110th Congress by Senator Kennedy (D-MA) and Representative Lewis (D-GA).
Administration	.

HR Policy Assn. Opposed to elimination of caps on damages in discrimination cases

Discrimination - Statute of Limitations

Issue	Under U.S. Supreme Court's decision in Ledbetter v. Goodyear, the period for filing pay discrimination charges under Title VII and related discrimination statutes currently limited to 180 or 300 days (depending upon the state) after the discriminatory act.
Legislation	The Ledbetter Fair Pay Act of 2009 (P.L. 111-2), signed by President Obama on 1/29/09 permits an employee or potentially other individual who is "affected by" pay discrimination under Title VII, the ADEA, ADA and Rehabilitation Act, to file a discrimination charge at virtually any point after the alleged discrimination occurred, as long as the individual is receiving a pay or retirement benefits check that was potentially reduced by the alleged discrimination.
Administration	President Obama Signed P.L. 111-2 on 1/29/09
HR Policy Assn.	Opposes expansion of the time to file a charge because of the undue burden on the employer of defending a claim years later when evidence and witnesses are hard to identify.

Discrimination - Disability

Issue	Implementation of the ADA Amendments Act of 2008 (ADAAA; P.L. 101-336), which represented a compromise between the business community and disability groups in overturning certain federal court decisions.
Legislation	
Administration	On 9/23/09, the EEOC issued proposed regulations implementing the ADAAA expanding the scope of the ADA beyond what Congress intended, including a list of "per se" disabilities
HR Policy Assn.	HR Policy Association filed comments with the EEOC on 11/19/09 arguing that the proposed regulations "radically change the intent" and "erode the protections of workplace functionality" in the ADAAA.

Scheduling

Issue	Flexible scheduling arrangements are worked out between employers and employees. Some would like to give employees a legal right to force employers to bargain over such issues.
Legislation	Working Families Flexibility Act (H.R. 1274) by Rep. Maloney (D-NY), would give employee federal right to request changes in scheduling and/or worksite and require employer to provide detailed written response.
Administration	
HR Policy Assn.	Rather than imposing new mandates, supports removing legal barriers restricting the ability of employers to agree to flexible scheduling arrangements with their employees.

Executive Compensation—Restrictions on TARP Companies

Issue	Requiring recipients of assistance under the Troubled Asset Relief Program (TARP) to agree to additional restrictions on executive compensation.
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Legislation	Sen. Chris Dodd Amendment to Title VII of the American Recovery and Reinvestment Act (Stimulus bill), Public Law 111-5, expands the executive compensation restrictions applicable to current and future TARP companies to prohibit bonuses, incentive payments and retention awards, with minor exceptions, paid to the proxy officers and up to the next 20 highest paid employees, depending on the amount of TARP aid received, expand the clawback requirement and termination payment restrictions, and apply say on pay to all companies receiving assistance. H.R. 384, by House Financial Service Committee Chairman Barney Frank (D-MA), would have adopted many of the same restrictions and given Treasury the authority to observe all Board and Board committee meetings. The bill passed the House 260-166 on 1/21/09 but is not expected to receive Senate action. H.R. 1664, by Rep. Grayson (D-FL) would have give Treasury the authority to prohibit any compensation payment that is unreasonable or excessive and prohibit any bonus, retention payment, or other supplemental payment that is not directly based on performance-based measures, with all standards set by the Treasury Secretary. The bill passed the House 247-171 on 4/1/09. S. 360/H.R. 357 by Sen. McCaskill (D-MO) and Rep. Moore (D-KS), would cap compensation for any employee of an entity receiving TARP funds at \$400,000. The McCaskill bill was included in the Senate-passed version of the stimulus bill but removed in conference. S. 431 by Sen. Whitehouse (D-RI) would set up a review panel to recoup excessive compensation from a TARP firm if the firm would become insolvent absent government funding.
Administration	The Administration did not support the bonus and incentive restrictions but included many of the other restrictions in announcing on Feb. 4, 2009 that it would promulgate additional guidance for future TARP companies. Treasury would have restricted cash compensation to \$500,000 for companies receiving extraordinary assistance and required the rest of the compensation be paid in restricted stock that did not vest until the government was repaid. Much of that announcement is superceded, and Treasury promulgated interim final regulations on 6/11/09.
HR Policy Assn.	Recognizes that with substantial government assistance in a bailout come substantial strings, but believes that such restrictions should not make it more difficult for companies to turn their businesses around or emphasize salary at the expense of pay for performance-based pay. The Center On Executive

Executive Compensation—Restrictions on TARP Companies

Issue	Imposing taxes on companies receiving funds under the TARP program that pay their employees bonuses or on their employees receiving the bonuses
Legislation	S.224, "Taxpayer Fairness Act," by Sens Barbara Boxer (D-CA) and James Webb (D-VA) would impose a 50% excise tax on certain bonuses received in 2009 received at companies that had received substantial TARP funds. H.R. 1586, by Rep Rangel (D-NY), would impose a 90% tax on bonuses paid to employees by TARP companies receiving more than \$5 billion in aid from 2008 forward, with certain exceptions; H.R. 1801, by Rep. Sherman (D-CA), would impose a 70% tax on employees who receive more than \$1 million, with certain limited exceptions, at companies receiving more than \$500 million in TARP funds; Compensation Fairness Act, S. 651, by Sens Baucus (D-MT) & Grassley (R-IA), would impose a 35% excise tax on TARP companies and their employees receiving any retention bonuses or any other bonus exceeding \$50K if not paid in restricted stock or options with a 3-year cliff vesting requirement; imposes a \$1 million limit on deferred compensation.

Administration Has voiced opposition to bonuses paid to employees of TARP companies and others receiving federal assistance but has retreated from supporting legislation.

HR Policy Assn. Opposes unconstitutional legislation to retroactively tax bonuses; recognizes legitimate right of government to impose restrictions on companies receive extraordinary federal assistance.

Discrimination - Sexual Orientation

Issue Prohibit workplace discrimination on the basis of sexual orientation or gender identity

Legislation The Employment Non-Discrimination Act (ENDA) (H.R. 2981/S. 1584), by Rep. Frank (D-MA), would ban workplace discrimination on the basis of sexual orientation or gender identity.

Administration

HR Policy Assn. No position

Equal Pay and Comparable Worth

Issue Unlimited damages and limit employer defenses for Equal Pay Act violations; mandate equal pay for comparable, but unequal, work

Legislation The Paycheck Fairness Act, (H.R. 12; S. 182), by Rep. DeLauro (D-CT) and former Sen. Clinton (D-NY), would amend the Equal Pay Act to provide for unlimited compensatory and punitive damages, eliminate certain employer defenses and allow opt-out class actions, was passed by the House on 1/9/09 by 256 to 153.

Administration

HR Policy Assn. Opposes unlimited damages, limiting employer defenses, and mandating equal pay for dissimilar work

Executive Compensation—Deferred Compensation

Issue Concern that nonqualified deferred compensation plans permit abuse of tax law by allowing participants to defer taxation until retirement when they may be in a lower tax bracket.

Legislation A proposal by Senator Max Baucus (D-MT) in the 110th Congress would place a \$1 million cap on the amount of income that could be deferred annually without being subject to the back taxes and impose a 20 percent excise tax penalty on all deferred compensation if the cap is exceeded. The proposal would also deny companies a compensation deduction for deferred compensation in excess of \$1 million for former CEOs and other members of the "top five" most highly compensated executives under Section 162(m).

Sen. Kerry has announced he will seek to introduce legislation to limit nonqualified deferred compensation to \$1 million as part of other limitations on deferred compensation.

Administration

HR Policy Assn. Opposes limits on deferred compensation and taxation as a means to encourage sound executive compensation practices.

Executive Compensation—Deferred Compensation

Issue Prohibiting deduction of nonqualified deferred compensation to companies who

	choose to terminate their pension benefits.
Legislation	Restoring Pension Promises to Workers Act by Sen. Harkin (D-IA) in the 110th Congress would amend section 409A of the tax code to subject all nonqualified deferred compensation to a 20 percent excise tax, interest and penalties if the employer does not maintain at least one qualified DB plan subject to minimum participation, vesting, and benefit requirements specified in the bill.
Administration	No position at the present time.
HR Policy Assn.	Opposes mandating retirement benefits for any workers.

Executive Compensation—Deferred Compensation

Issue	Prohibiting foreign corporations headquartered in low- or no-tax countries from paying nonqualified deferred compensation to U.S. employees.
Legislation	Section 801 of Public Law 110-343, the Emergency Economic Stabilization Act, would tax nonqualified deferred compensation provided to U.S. employees of corporations headquartered in countries with low or no taxes that do not have tax treaties with the U.S. or if the corporation's income is not tied primarily to conducting business in the U.S. and would apply to U.S. taxpayers paid by a foreign employer. It would treat stock appreciation rights, restricted stock units and other performance-based compensation provided to U.S. expatriates by many foreign companies as nonqualified deferred compensation under section 409A of the tax code subject to interest and a 20 percent excise tax penalty.
Administration	Issued Interim Final Regulations 1/8/09
HR Policy Assn.	Opposes the overbroad restrictions on nonqualified deferred compensation.

Executive Compensation—Deferred Compensation

Issue	Taxation of Nonqualified Deferred Compensation of Foreign Expatriates in U.S.
Legislation	Section 305 of the Heroes Assistance and Earnings Relief Act, by Rep. Rangel (D-NY) would require foreign employees working in the U.S. to take nonqualified deferred compensation earned while in the U.S. into income on the day prior to departing the country and thus pay income tax on it.
Administration	
HR Policy Assn.	Opposes the restrictions on nonqualified deferred compensation.

Executive Compensation—Shareholder Votes

Issue	Requiring support of a supermajority (60%) of shareholders for a publicly traded company to pay any employee more than 100 times the average compensation for all employees
Legislation	"Excessive Pay Shareholder Approval Act," S. 1006, by Sen. Richard Durbin (D-IL) would require a 60% vote for any company to pay any employee more than 100 times the average compensation of all employees at the company and expand proxy disclosure requirements.
Administration	No position.
HR Policy Assn.	Opposes binding shareholder votes on compensation

Executive Compensation—Shareholder Votes

Issue	Some believe that executive compensation should be subject to annual nonbinding
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Legislation	shareholder votes (e.g., say on pay) and change in control arrangements should be subject to a separate nonbinding vote as part of the merger approval process. Section 2 of H.R. 3269, by Rep. Barney Frank (D-MA) would require an annual nonbinding vote on the proxy disclosures of all publicly held companies and a separate vote on change-in-control arrangements not previously approved. Passed the House 237-185 on 7/31/09. Section 3 of The "Shareholder Bill of Rights Act," S. 1074, introduced by Sens. Charles Schumer (D-NY) and Maria Cantwell (D-WA), would require annual nonbinding disclosure of golden parachute agreements in proxy materials relating to merger or other business combination or sale and require a separate shareholder vote on the agreement. A number of other bills include similar "say on pay" requirements, including H.R. 2861 by Rep. Peters (D-MI), H.R. 2251 by Rep. Kilroy (D-OH), and h.r. 3272 by Rep. Ellison (D-MN)
Administration	Supports "say on pay" for all employers
HR Policy Assn.	Opposes a shareholder vote on executive compensation.

Health Care—Uninsured and Regulatory Reform

Issue	Nearly 46 million people are uninsured in the United States and there are significant gaps in the quality of health care delivered despite the U.S. spending more on health care than any other nation. Moreover, increases in the cost of health care have far outpaced inflation for years and this trend is expected to continue.
Legislation	There are two leading legislative proposals for health reform: a bill passed by the House of Representatives (H.R. 3962) and another passed by the Senate (H.R. 3590). H.R. 3962 would broadly reform the nation's health care system, implement a pay-or-play employer mandate requiring employers to offer qualified coverage or pay an 8% payroll tax, require all individuals to maintain coverage, require insurers to offer coverage to all without regard to preexisting conditions (guarantee issue coverage), create new health insurance exchanges for people to purchase insurance, create a new government health plan, prohibit post-retirement reductions to retiree health plans, impose new taxes and benefit mandates on employers. H.R. 3590 would broadly reform the nation's health care system to require all individuals to maintain coverage, require insurers to offer coverage to all without regard to preexisting conditions (guarantee issue coverage), create new health insurance exchanges for people to purchase insurance, impose a "free rider" penalty on employers when certain employees opt out of employer coverage and get coverage through an exchange, and impose an excise tax on excess of high cost employer sponsored plans above a certain threshold, and require employers to provide vouchers for certain low wage workers who opt out of the employer's plan and get coverage through a newly created health insurance exchange.
Administration	Congress is in the process of reconciling the House and Senate bills. Supports H.R. 3962 and H.R. 3590 and wants health reform enacted by early February.

HR Policy Assn. Opposes H.R. 3962 and has serious concerns about the increased costs that would be placed on employers and their employees with employment-based coverage under H.R. 3590 (the Senate bill).

The Association supports a national health care reform agenda that builds upon our employer-based system to create a competitive and accountable health care market place that controls costs and improves value, ensures all Americans have health insurance, and achieves the adoption of health information technology together with an enhanced focus on wellness, prevention, and primary care.

Health Care—Uninsured and Regulatory Reform

Issue Retirees are finding it difficult to find affordable coverage, especially pre-65 retirees who leave their jobs before they are eligible for Medicare. Employers are discouraged from providing traditional retiree health benefits due to competitive economic pressures and escalating health care costs.

Legislation The House health reform bill (H.R. 3962) includes provisions from H.R. 1322, The Emergency Retiree Health Benefits Protection Act of 2009, introduced by Rep. Tierney (D-MA), which would prohibit changes, reductions, or terminations of existing retiree health plans once employees have retired.

H.R. 3962 would extend COBRA coverage until the date an individual becomes eligible for coverage under another employer's plan or eligible for coverage under newly created health insurance exchanges expected to be in place in 2013.

H.R. 3962 and the Senate health reform bill (H.R. 3590) would establish a temporary reinsurance program to help with high cost claims for retirees between ages 55 and 64 with employer-sponsored retiree coverage.

On Dec. 19, 2009, the President enacted an extension of the temporary COBRA subsidy that was set to expire at the end of 2009. The original subsidy enacted as part of the American Recovery and Reinvestment Act of 2009 provides for a 65% subsidy toward COBRA premiums for up to nine months for people involuntarily terminated before December 31, 2009. Under the extension, individuals involuntarily terminated from employment by February 28, 2010 are eligible for the subsidy and the maximum length of the subsidy is extended from 9 months to 15 months.

Administration

HR Policy Assn. Opposes broad extensions of COBRA coverage and legislation that restricts employers' flexibility to alter benefits to meet the needs of companies and their employees, supports incentives for employers to offer coverage to early retirees.

Health Care—Uninsured and Regulatory Reform

Issue Existing Flexible Spending Arrangements (FSAs) and health savings accounts (HSAs) are valuable tools that offer consumers tax savings and the ability to have more control over health care decisions, yet both have limitations that lessen their usefulness for some consumers and employers. Opponents of HSAs want to restrict the use of HSAs and view them as tax shelters for the healthy and wealthy.

Legislation The House health reform bill (H.R. 3962) and Senate health reform bill (H.R. 3590) would cap annual contributions to FSAs at \$2,500, and increase the penalty for nonqualified distributions from HSAs to 20 percent.

Administration	Position unclear.
HR Policy Assn.	Supports legislation to allow consumers more control over their health care, increasing flexibility in the way employees and employers pay for health care, and allowing carryover of unused FSA funds. Opposes legislation that would add burdensome requirements on consumers and employers in connection with HSAs, FSAs, and HRAs.

Health Care—Uninsured and Regulatory Reform

Issue	Few providers have adopted health information technology (HIT) such as electronic medical records and e-prescribing that could save lives and money, and improve the quality of our health care system.
Legislation	Congress passed the American Recovery and Reinvestment Act in 2009 (P.L. 111-5), which included \$19 billion for health IT. The Senate health reform bill (H.R. 3590) would set deadlines for providers to develop interoperable standards for using health IT.
Administration	Supports providing incentives to health care providers to modernize medical records and expand the use of interoperable health IT.
HR Policy Assn.	Supports HIT provisions in P.L. 111-5 and legislative efforts to facilitate adoption of HIT by all health care providers to improve health care quality and efficiency.

Health Care—Uninsured and Regulatory Reform

Issue	To decrease the number of uninsured Americans, many proposals look to the states to allow them to try different approaches to expand coverage.
Legislation	Massachusetts and San Francisco recently enacted health reform legislation requiring employers to provide coverage for certain employees or pay a penalty to help cover the uninsured; the San Francisco ordinance is being challenged in federal court as being preempted by ERISA.
Administration	
HR Policy Assn.	Supports the preservation of strong ERISA preemption of state laws that enables employers to administer uniform benefit plans across state lines, and instead supports a national reform agenda.

Paid Leave

Issue	Mandate employers provide employees paid sick leave.
Legislation	Healthy Families Act (S. 1152/H.R. 2460), by Sen. Kennedy (D-MA) and Rep. DeLauro (D-CT), would mandate employers provide seven days' paid sick leave, broadly defined, to employees working at least 30 hours/week; Emergency Influenza Containment Act (H.R. 3991), by Rep. Miller (D-CA), would require employers to provide employees a maximum of five days of paid sick leave if the employer requires an employee to take leave because of contagious symptoms; Pandemic Protection for Workers, Families and Businesses Act (H.R. 4092/S. 2790), by Rep. DeLauro (D-CT) and Sen. Dodd (D-CT) would require employers to provide a minimum of seven days of paid sick leave for illnesses, which have the symptoms of a contagious illness.
Administration	
HR Policy Assn.	Opposes mandated paid sick leave.

Family and Medical Leave Act Expansion

Issue	Mandate or facilitate paid FMLA leave.
Legislation	Family Leave Insurance Act (H.R. 1723) by Rep. Stark (D-CA), would create a Family Leave Insurance Fund, providing up to 8 weeks of paid leave for FMLA reasons, funded by a wage tax on employers; the Balancing Act of 2009 (H.R. 3047) by Rep. Woolsey (D-CA), would provide paid FMLA leave through an insurance program funded by employer and employee premiums.
Administration	
HR Policy Assn.	Opposes mandated paid FMLA leave.

Family and Medical Leave Act Expansion

Issue	Legislation that seeks to expand permissible uses for leave under the Family and Medical Leave Act
Legislation	Department of Defense Authorization Act (H.R. 2647) would expand the definition of covered active duty service member under FMLA to include certain veterans undergoing medical treatment, passed by the House on 6/25/09 by 389 to 22; Family Leave Expansion Act (H.R. 824) by Rep. Maloney (D-NY) would expand FMLA to include grandparents, adult children, same-sex spouses, domestic partners, parents-in-law, and siblings; The Paid Vacation Act of 2009, by Rep. Grayson (D-FL), would mandate one week of paid annual leave for employees; the Balancing Act of 2009 (H.R. 3047) by Rep. Woolsey (D-CA), would expand FMLA-eligible leave to include school and community activities attended by family members, routine medical care needs for same (including visits to nursing and group homes) or to address the effects of domestic violence.
Administration	
HR Policy Assn.	Opposes expansion of FMLA

Labor Law—Union Organizing

Issue	Recognition of unions without secret ballot elections (“card checks”), binding arbitration of first contracts, increased penalties for employer, but not union, labor law violations
Legislation	The Employee Free Choice Act (S. 560; H.R. 1409) by Sen. Kennedy (D-MA) and Rep. Miller (D-CA).
Administration	
HR Policy Assn.	Strong opposition to card check mandate and compulsory arbitration and other changes that would eliminate the balance in labor laws.

Labor Law—Union Organizing

Issue	Assist union organizing efforts through requirements imposed on federal contractors by executive orders.
Legislation	
Administration	President Obama's Executive Order 13496 requires federal contractors to post notices in their workplaces advising employees of their rights under the National Labor Relations Act; DOL issued proposed regulations implementing E.O. 13496 on 8/3/09.

HR Policy Assn. HR Policy Association filed comments on the proposed DOL regulations objecting to the content of the required notice and seeking clarification of what employer actions could result in contract debarment.

Labor Law—Union Organizing

Issue Debar companies who have a loosely defined "pattern" of failing to comply with labor, employment and other kinds of laws

Legislation \

Administration White House Task Force on the Middle Class has recommended a "responsible federal contracting" policy that would grade federal contract bidders on their labor policies.

HR Policy Assn. Oppose tying the debarment of federal contractors to compliance with laws that are unrelated to the integrity of the contract

Labor Law—Supervisors

Issue Narrow the definition of exempt supervisors under the National Labor Relations Act

Legislation The Re-empowerment of Skilled and Professional Employees and Construction Tradesworkers Act (RESPECT) Act, introduced in the 110th Congress by Rep. Andrews (D-NJ) and Sen. Dodd (D-CT).

Administration

HR Policy Assn. Oppose narrowing the definition of supervisor.

Discrimination—Religious

Issue Expand Title VII's requirements, which require employers to reasonably accommodate employees' religious practices, to impose new restrictions on scheduling, dress codes, etc.

Legislation The Workplace Religious Freedom Act, introduced in the 110th Congress by Rep. McCarthy (D-NY).

Administration

HR Policy Assn. Opposes expanding Title VII's coverage

Immigration—I-9 Employment Verification Forms

Issue Reform employment verification (I-9) process

Legislation The New Employee Verification Act (H.R. 2028) by Rep. Johnson (R-TX) would implement state-of-the-art electronic verification system for new hires; the SAVE Act, introduced in the 110th Congress by Rep. Shuler (D-NC), Sen. Vitter (R-LA), & Sen. Pryor (D-AR), require employers to verify all new and existing employees through EEVS; FY 2010 DHS Appropriations bill (H.R. 2892) would require federal contractors to use E-Verify for all new hires, as well as existing employees working on federal contracts, passed by both houses.

Administration

HR Policy Assn. Supports increased availability of workers and reforms of employment verification system as long as that system is efficient and reliable. Founding member of HR Initiative for a Legal Workforce which supports state-of-the-art technology to protect against fraudulent documentation. Oppose requirement that employers use Basic Pilot Program in the absence of reform. Supports H.R. 2028. Plaintiff in lawsuit seeking to block Bush executive order requiring federal contractors to use E-Verify.

Retirement Security—Hybrid (Cash Balance) Plan Reforms

Issue	Clarifying that existing and future hybrid (cash balance and pension equity) plans are legal under ERISA, tax and age discrimination law. Eliminating overpayments of benefits when calculating lump sum benefits due to below-market statutory interest rates.
Legislation	The Pension Protection Act, Public Law 109-280, included prospective safe harbor relief from discrimination lawsuits for hybrid plans, limited flexibility in conversions from traditional DB plans to hybrid plans and clarified that a market rate is to be used in calculating lump sum payments.
Administration	The Treasury Department and the IRS are in the process of developing implementing regulations for the hybrid plan provisions in the PPA. Treasury has also restarted its determination letter program that declares conversions to hybrid plans as acceptable or not under prior law and current law.
HR Policy Assn.	Supports the general approach in PPA, but prefers retroactive relief for prior hybrid conversions. Signed 6/13/07 letter to Congress seeking clarification from Treasury regarding implementation of PPA hybrid provisions related to choice of greater benefits under traditional DB or new hybrid plan.

Contingent Workers

Issue	Expand requirement that employers provide 60 days notice prior to certain layoffs and plant closings
Legislation	The Federal Oversight, Reform, and Enforcement of the WARN Act (FOREWARN) (S. 1374/H.R. 3042), by Sen. Brown (D-OH) and Rep. Miller (D-CA) would increase the amount of required notice from 60 to 90 days and substantially increase the number of instances and recipients of WARN notices; The Alert Laid-Off Employees in Reasonable Time (ALERT) Act (H.R. 2077), by Rep. Gutierrez (D-IL), would require sixty days notice any time an employer lays off fifty or more employees among all of its U.S. operations within a 30 day period; The Employ America Act (S. 2804), by Sens. Grassley (R-IA) and Sanders (D-VT), would deny H-1B and other skilled worker visas to employers which have issued a WARN notice.
Administration	
HR Policy Assn.	Oppose expansion of the WARN Act

Contingent Workers

Issue	Restrict ability of employers to classify individuals as independent contractors and require benefits for contingent workers (independent contractors, temporary and part-time employees)
Legislation	The Taxpayer Responsibility, Accountability, and Consistency Act, (H.R. 3408; S. 2882) by Rep. McDermott (D-WA) and Sen. Kerry (D-MA), would narrow definition of independent contractor and enhance penalties and enforcement against misclassification; the Balancing Act of 2009 (H.R. 3047) by Rep. Woolsey (D-CA), require coverage under employers' pension and health care programs of certain independent contractors and part-time and temporary employees.
Administration	

HR Policy Assn. Supports flexibility and clarity of current law in determining who is an independent contractor and retaining current requirements governing qualifications for employee benefit programs

Contingent Workers

Issue Overturn the U.S. Supreme Court decision in *Gross v. FBL Financial Services*, which places the full burden of proof on an Age Discrimination in Employment Act (ADEA) plaintiff when the employee has established sufficient evidence of possible age-related discrimination.

Legislation Protecting Older Workers Against Discrimination Act (S. 1756/H.R. 3721), which would overturn the Court's decision in *Gross v. FBL Financial Services*.

Administration

HR Policy Assn. HR Policy Association opposes expansion of the ADEA in a manner that would significantly increase litigation.

Global Sourcing

Issue Increase number of available visas for skilled workers

Legislation The economic stimulus (111-05) restricts the issuance of H-1B visas to TARP recipients who have ordered recent layoffs. The H-1B and L-1 Visa Reform Act (S. 887), by Sen. Durbin (D-IL) would limit the use of H-1B and L-1 visas. The STRIVE Act, introduced in the 110th Congress by Reps Gutierrez (D-IL) and Flake (R-AZ), would increase the threshold for H-1B visas from 65,000 to 115,000 with market-based escalator mechanism and exempt certain foreign nationals with advanced degrees; the Global Competitiveness Act, introduced in the 110th Congress by Sen. Cornyn (R-TX) would make available approximately 150,000 previously unused H-1B visas and 218,000 permanent employment-based visas from prior fiscal years while increasing the annual H-1B cap from 65,000 to 115,000 for fiscal years 2009 through 2011; The Employ America Act (S. 2804), by Sens. Grassley (R-IA) and Sanders (D-VT), would deny H-1B and other skilled worker visas to employers which have issued a WARN notice.

Administration

HR Policy Assn. Supports increases in H-1B visas and opposes restrictions on non-immigrant visas rendering them unavailable in situations where needed.

Child Labor

Issue Increased penalties for child labor violations.

Legislation Child Labor Protection Act, introduced in the 110th Congress by Rep. Woolsey (D-CA) would increase child labor penalties to \$11,000 per violation, allow DOL to assess a penalty of up to \$50,000 when a violation results in the death or serious injury of a child and up to \$100,000 for repeat violations.

Administration

HR Policy Assn. Supports the effective enforcement of child labor laws.

Whistleblower Protections

Issue Increase protections for employees who disclose corporate wrongdoing

- Legislation** The Whistleblower Protection Enhancement Act of 2009 (H.R. 1507), by Rep. Chris Van Hollen (D-MD), would provide uncapped compensatory damages for whistleblowers alleging mismanagement of federal contracts and other errors.
- Administration**
- HR Policy Assn.** Opposes proposals that are not consistent with existing whistleblower protections, such as those that are overbroad or provide new, unjustified remedies
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