



HEALTH CARE REFORM OUR UPDATE & ADVICE

MORRIS & REYNOLDS INSURANCE PRESENTS ADVICE & ANSWERS ON AMERICA'S HEALTH CARE REFORM

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CONGRESS GETS TO WORK ON AFFORDABLE CARE ACT AMENDMENTS

The 114th Congress with its 247 Republican Representatives and 54 Republican Senators appears to be fulfilling its promise to take a fresh look at the Affordable Care Act (ACA). Two bills introduced in the first work week in January demonstrate how quickly they want to do this.

The first is "**The Hire More Heroes Act of 2015**" (Heroes Act) which was introduced to both houses of Congress on January 6. The Heroes Act would amend the ACA to provide that veterans who are eligible for health care coverage from the U.S. Department of Veterans Affairs or Tricare are not counted for purposes of determining whether an employer is an "Applicable Large Employer" (ALE) for purposes of the ACA. Only ALE's-those with 50 or more full time equivalents-are subject to the play or pay requirements of the ACA. (In 2015, the play or pay requirements won't apply to most employers with between 50 and 99 full time equivalents.)

The bill is aimed at small employers and encourages them to hire veterans without risk of tripping into ALE status under the ACA. This creates an instant advantage to veterans because many small employers have been limiting their hiring to avoid being subject to the rigorous requirements of the play or pay mandates. The Congressional Budget Office has indicated that this bill would cost the government (by reducing revenue) approximately \$858M over a ten year period beginning in 2015. But less than a billion dollars over ten years might seem a small price to pay for a program that

will (i) encourage smaller employers to hire new employees and (ii) make our returning veterans even more attractive hires for these employers. The former is attractive because job growth for small employers has been perceived by many to be stagnant since the passage of the ACA and anecdotal evidence abounds to support that view. The latter has the obvious appeal of better positioning those who have provided service the ability to re-enter civilian life. It also makes common sense because these new hires, by definition, are not the hires the ACA is concerned with since they are already eligible for federally-supported insurance coverage.

Not surprisingly, the Heroes Act passed easily in the House. As of January 10, 2015, it is under consideration in the Senate and should pass easily there. It appears that the President might sign this bill into law when it reaches his desk.

On Thursday, January 8, 2015, the House passed **The Save American Workers Act (40 Hours Act)**, on a 252 to 172 vote. The 40 Hours Act would amend the ACA to redefine the definition of a full-time employee from 30 hours a week to 40 hours a week.

The 40 Hours Act is supported broadly by business groups and associations and employers across the country as it would re-establish the traditional 40-hour work-week as the standard for American business.

The Congressional Budget Office, among others, has indicated that this provision of

the ACA would result in a major shift of the American workforce to "part-time" (i.e., less than 30 hours per week), as employers over the next ten years would seek to cut costs by reducing hours below 30.

The 40 Hours Act now goes to the Senate. It appears that the bill has the Democratic votes it will need to avoid a Democratic filibuster. Senators Joe Donnelly of Indiana and Joe Manchin III of West Virginia, both Democrats, are co-sponsors of the bill and other Democrats are on record as supporting the measure.

However, the 40 Hours Act has little real chance of being passed into law. President Obama has vowed to veto the bill. A 2/3rds vote in both chambers of Congress is needed to override a veto. It is unlikely that this bill-which would reflect a major change to the ACA and would likely even require a further delay in enforcement of the play or pay mandates because of the impact on regulations and employer and vendor systems-will receive the support it would need to override the President's veto. Historically, Congress has overridden fewer than ten percent of all presidential vetoes.



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