

## Beltway Buzz, July 26, 2019

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### DOL Personnel Moves.

While we all wait to see how and when the confirmation process for **secretary of labor nominee Eugene Scalia** may play out, the front office shake-up at the U.S. Department of Labor (DOL) continued this week. Joining Acting Assistant Secretary Patrick Pizzella in the Office of the Secretary this week are new Chief of Staff Tim Taylor and Deputy Chief of Staff Catherine A. Bartley. Taylor was previously deputy assistant secretary for policy at the DOL and most recently served as general counsel for the White House's Office of National Drug Control Policy, while Bartley served under Pizzella in the DOL's Office of the Deputy Secretary. As we have said before at the *Buzz*, "personnel is policy," so we will watch closely to see how these moves may impact the DOL's policy agenda.

### OFCCP PAG Opinion Letter.

In late 2018, the DOL's Office of Federal Contract Compliance Programs (OFCCP) issued a [directive](#) establishing a process for the issuance of opinion letters to "provide guidance on the application of OFCCP regulations to fact-specific situations." On July 22, 2019, OFCCP issued its [second opinion letter](#) pursuant to the directive. The [letter](#) builds upon **OFCCP's 2018 compensation guidance and specifically addresses pay analysis groupings** (PAGs), groups of comparable employees that are examined to determine whether a federal contractor's compensation practices are discriminatory. The opinion letter provides contractors with the "opportunity to submit their PAG structure for review and to receive feedback from OFCCP, which OFCCP would take into account in future compliance evaluations." However, the letter also notes that OFCCP "is unable to conclusively agree that it will rely upon specific, predetermined PAGs in all future compliance evaluations as there may have been material changes to factors considered by OFCCP in its initial evaluation of the contractor's PAGs." Laura R. Garger has the details [here](#).

### WHD Opines on Truckers' Wage Issue.

OFCCP's colleagues in the DOL's Wage and Hour Division (WHD) also issued an [opinion letter](#) this week. The letter is a response to an inquiry regarding **how to properly compensate long-haul truck drivers who may spend time in the truck's sleeper berth** during the trip. The opinion letter concluded that "the time drivers are relieved of all duties and permitted to sleep in a sleeper berth is presumptively non-working time that is not compensable."

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## Treasury Expands HDHP Options.

On July 17, 2019, the U.S. Department of the Treasury and the Internal Revenue Service issued [Notice 2019-45](#), **expanding the preventive care benefits that may be provided by a high deductible health plan** (HDHP) without a deductible or below the applicable minimum deductible. The notice was issued in response to President Trump's recent [executive order](#) on healthcare pricing that directed the secretary of the treasury to expand patients' ability to select HDHPs that can be used with a health savings account (HSA) and that cover low-cost preventive care, before the deductible, for certain chronic conditions. Under the notice, individuals will not be disqualified from contributing to an HSA when they receive medical care or prescription drugs for certain chronic conditions, such as diabetes, asthma, depression, and heart failure, among others, and are not subject to a deductible or are subject to a deductible below the statutory limit applicable to HDHPs.

## House PRO Act Hearing.

On July 25, 2019, the U.S. House Subcommittee on Health, Employment, Labor, and Pensions (HELP) held its second hearing on the **Protecting the Right to Organize Act of 2019** (PRO Act)—the bill that would make [sweeping changes to federal labor law](#). Readers might recall that Democratic witnesses in the first hearing included AFL–CIO President Richard Trumka and former National Labor Relations Board (NLRB) chair Mark Gaston Pearce. This time around, former NLRB general counsel Richard F. Griffin, Jr., testified in favor of the bill. Given the caliber of the witnesses testifying in favor of the PRO Act, this is obviously a priority of Democrats on the HELP subcommittee.

## Multiemployer Pension Bill Passes House.

On July 24, 2019, the House of Representatives passed the [Rehabilitation for Multiemployer Pensions Act of 2019 \(H.R. 397\)](#) (also known as the Butch Lewis Act) by a vote of 264–169. The **bill would make long-term, low-interest loans to critical and declining multiemployer plans**. While all stakeholders and policymakers likely agree that the multiemployer pension system is in trouble, most Republicans view this bill as a taxpayer bailout. For this reason, the bill likely has an uphill climb in the U.S. Senate. (Recall, too, that last year's [Joint Select Committee on Solvency of Multiemployer Pension Plans](#) failed to come up with a viable solution for the problem, so the politics of this issue are challenging.)

## [“Imagine What Gon’ Happen When You Try and Tax Our Whiskey.”](#)

Beginning with the [1794 Whiskey Rebellion](#), whiskey and taxation have forever been intertwined in our nation's history. Just this week, two U.S. senators introduced the **Advancing Growth in the Economy through Distilled Spirits Act**, which would make permanent an expiring tax provision that allows the deduction of interest expenses related to distilled spirit inventories in the year those expenses are paid, as opposed to when the inventories are sold (which, due to the aging process, can be years, or even decades, later). To determine which senators authored this bill, simply replace “distilled spirit” above with “bourbon.” That's right; Senators Mitch McConnell (R-KY) and Rand Paul (R-KY) are the cosponsors, which should come as no surprise. Kentucky produces 95 percent of the world's bourbon, contributing \$8.6 billion to the state's economy each year (though it is a [myth that bourbon needs to be made in Kentucky](#)), so this is simply good constituent work for the two Bluegrass State senators ahead of the Senate's August recess.

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