CLIENT ALERTS & INSIGHTS

Mandatory PTO Coming Thanks to Unprecedented Legislation

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On May 28, 2019, the Nevada state legislature passed an unprecedented piece of legislation, which would require employers to provide employees with paid time off ("PTO"). The legislation, which must still be signed into law by Governor Steve Sisolak (D), would make Nevada just the second state (after Maine) to mandate employer-offered, unrestricted paid leave.

While many states and localities have required employers to offer discrete benefits like paid sick leave and paid family leave in recent years, no state in the nation requires employers to offer paid vacation leave. Despite this dichotomy, it has become increasingly common for employers to replace separate vacation and sick leave policies with universal PTO policies, allowing employees to use their leave for any reason of their choosing. Now, the state of Nevada will likely join Maine in requiring employers to offer PTO.

As was the case with Maine, the Nevada legislation originated from a push to provide paid leave for sick employees. However, the final legislation opens the paid leave for far broader uses than employee illnesses.

If enacted, employers of 50 or more employees will be required to provide employees with one hour of PTO for every 52 hours worked, for use at the employee's discretion, without requiring the employee to provide a reason for the use of leave. The bill does not provide for employer discretion, but instead explicitly prohibits employers from denying the use of PTO.

The bill would limit the use of such PTO to 40 hours per year and require carryover of unused PTO up to 40 hours each year. Alternatively, employers would be permitted to frontload the full 40 hours of leave each year. Employers would be permitted to set the minimum increment of use at four hours or less. Employers will also be required to provide employees with notice of available leave each payday, but are not required to pay out any unused PTO upon termination of employment.

Employers who already provide at least 40 hours of unrestricted paid leave each year will be exempt from the new legislation.

While the legislation must still be signed into law, it passed the Democrat-led legislature and is likely to be approved by Governor Sisolak, also a Democrat. In anticipation of the law's enactment, employers should consider reviewing their paid leave and benefits policies and preparing for the administration of PTO and the associated notice requirements.

For more information on this topic, please contact a member of the firm's Labor & Employment Practice Group.

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