

In last April's Executive Scan, I made predictions on labor law reform, increases in unemployment insurance taxes and other workplace mandates from Congress. Gridlock in the Senate kept most workplace laws from changing, but federal regulators are more active than anyone forecasted.

National Labor Relations Board (NLRB)

The NLRB adopted the spirit of Card Check (the anti-secret ballot bill) and is taking up a series of cases making it easier for unions to win elections in workplaces. The law restricting or allowing employee use of communication systems, the right of union reps to enter the workplace and speak to employees, and even the method of balloting are all on the agenda. Front and center is a new proposed rule to require **nearly all private sector employers** to post an 11x17 inch notice (modeled after the 2010 federal contractor poster) advising employees of their right to join a union, to assemble and discuss wages/working conditions and the right to strike. It also advises employees they may distribute literature in break areas and restrooms.

Watch for Big Changes at the ESC

The unemployment insurance system normally works on a dollar-in-and-out basis with payroll taxes sufficient to pay current claims. Many months of high unemployment and a \$2.5 billion debt to the federal government for borrowed benefits have created a serious red ink problem. The feds are scheduled to begin charging 4% interest as of January 1, 2011 with payments starting this September. Further, the .3% FUTA tax credit (for well-run systems) will end while North Carolina is in debt. Governor Perdue and Secretary Crisco have announced the Department of Commerce will take a larger role in managing the Employment Security Commission as part of the overall state deficit reduction plan.

Contact me directly if I can help you or your team.

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MY PREDICTION:

The NLRB is a pendulum agency, swinging back and forth with the political winds. The law itself is quite general, so a new case decision or rule can have a big impact. Since the Board is now run by President Obama's appointees with strong Labor backgrounds, expect a series of pro-union decisions and rulemaking having an important cumulative effect. Go to www.capital.org/nlrb to learn more and to comment on the new poster rule by the February 22 deadline.

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HOW TO PREPARE:

Assume the NLRB will give every possible boost to labor unions in a new election campaign or unfair labor practice proceeding. Elections will be less predictable and even normal employer requests, such as the voting date itself, will be decided in favor of the union position. Still, the reasons your employees might seek a union are the same and something you can impact today. Now is the time to know where you stand in employee perception and what you plan to do to improve that perception.

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MY PREDICTION:

Getting out of this mess will require roughly equal parts of federal forgiveness/waivers, increases in the FUTA tax and re-structuring of the way ESC does business. We cannot expect the feds to completely bail us out given their own budget concerns. Tax rates would take eye-popping jumps if taxes are the only solution. Management at ESC is due for a change and must return to working with the employer community on solutions.

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HOW TO PREPARE:

Now more than ever, contesting the right claims, appealing poor decisions by ESC, requesting non-charging where appropriate, ensuring the official records are correct, and reviewing your annual statement carefully will help minimize the financial impact when it comes. We expect a multi-month process to sort this out and bring order to the chaos at ESC. CAI and its public policy arm, Employers Coalition of N.C., are very active in affecting the ultimate solution on behalf of our employer-members.

Executive Scan provides a quick monthly update on internal and external issues affecting your workplace with timely advice on ways to respond. It is provided to members and friends of CAI.

Executive Scan is written by CAI's CEO, Bruce Clarke, JD.

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