

Employers Can Expect Stricter Wage & Hour Enforcement: Senate Confirms David Weil as the New Wage and Hour Administrator

Labor & Employment Law Update

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On April 28, 2014, the Senate voted to confirm Dr. David Weil as administrator of the U.S. Department of Labor's Wage and Hour Division (WHD). It has been over a decade since the Senate has confirmed a WHD administrator. President Obama's nomination of Dr. Weil has been controversial and his confirmation was approved on narrow margins with a vote of 51-42 in favor of the nomination.

Dr. Weil's nomination drew scrutiny because of a report he submitted to the Department of Labor in May 2010 entitled Improving Workplace Conditions through Strategic Enforcement: Report to the Wage and Hour Division Strategic Enforcement. The report illustrates that Dr. Weil supports implementing a penalty policy "as a central element of deterrence." The report further outlines that he wants WHD to increase civil and criminal litigation efforts to deter noncompliance, and to consistently impose civil penalties and liquidated damages. Dr. Weil recommends that WHD move to a strategic and proactive method of investigating rather than reacting to worker complaints. He identifies the following as targeted industries: construction, health care, landscaping, hospitality, restaurants, grocery stores, agricultural products, moving companies, logistics companies, janitorial services, and home health care services.

Dr. Weil, who has spent his career in academia, is now poised to regulate the business community through increased investigations and strict enforcement of wage and hour laws with an eye towards penalizing companies. In addition, there are numerous comments in the report that suggest Dr. Weil attributes the need for stricter enforcement to the decline in private-sector unionization and that he would support efforts to increase unionization.

Dr. Weil's confirmation is a further sign that employers can expect broad review and increased scrutiny of their wage and hour practices. Employers should conduct frequent reviews and internal audits of wage and hour practices, as the

DOL appears ready to hammer employers for noncompliance issues, including those that are minor and technical in nature.

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